

Rabbi Nathaniel Helfgot
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Between Heaven and Earth: When Ethics and Halakha Collide

Session 1: Foundational Concepts

1. "Is the pious loved by the **gods** because it is pious, or is it pious because it is loved by the gods?" Plato, *Euthyphro* (5-4th century BCE)
2. It is generally agreed that whatever God wills is good and just. But there remains the question whether it is good and just because God wills it or whether God wills it because it is good and just; in other words, whether justice and Goodness are arbitrary or whether they belong to the necessary and eternal truths about the nature of things." G. W. Leibnitz *Reflections on the Common Concept of Justice* (1702 CE)

3. ואגב באתי להאי ענינא, אכתוב לו מה שחקרתי מכבר, בהא דכתיב "דרכיה דרכי נועם" אם שהדרכים בעצמם הם מטבעם נועם ואמת ושלוה, רק שאנו לא ידענו מהם וה' יתברך גילה אותם לפנינו או שהנעימות ומתיקות הנמצא בהם הוא אחרי שנצטוונו בהם... על ידי זה הם דרכי נועם ונתיבות שלום"

(רב יעקב משה חרל"פ - במכתב בספר "מלכי בקודש" חלק ד, עמוד , , 160) Early 20th Century

4. Bereishit 18

ויקמו משם האנשים וישקפו על-פני סדם ואברהם הלך עמם לשלחם:
The agents set out from there and looked down toward Sodom, Abraham walking with them to see them off.

וה' אמר המכסה אני מאברהם אשר אני עשה:
Now יהוה had said, "Shall I hide from Abraham what I am about to do,
ואברהם היו יהיה לגוי גדול ועצום ונברכו-בו כל גויי הארץ:
since Abraham is to become a great and populous nation and all the nations of the earth are to bless themselves by him?"

כִּי יִדְעֵתִיו לְמַעַן אֲשֶׁר יִצְוֶה אֶת־בְּנָיו וְאֶת־בֵּיתוֹ אַחֲרָיו וְשָׁמְרוּ דְרָגְךָ ה' לַעֲשׂוֹת צְדָקָה וּמִשְׁפָּט לְמַעַן הִבְיֵא ה' עַל־אַבְרָהָם אֶת אֲשֶׁר־דִּבַּר עִלְיוֹ:

For I have singled him out, that he may instruct his children and his posterity to keep the way of יהוה by doing what is just and right, in order that יהוה may bring about for Abraham what has been promised him.”

וַיֹּאמֶר ה' זַעֲקַת סּוּדֹם וְעֹמֶרָה כִּי־רָבָה וְחַטָּאתָם כִּי כָבֵדָה מְאֹד:

Then יהוה said, “The outrage of Sodom and Gomorrah is so great, and their sin so grave!

אֲרֹדֶה־נָא וְאֶרְאֶה הֲכַצַּעְתֶּם הַבְּאֵה אֵלַי עֲשׂוּ וְכָלָה וְאִם־לֹא אֲדַעָה:

I will go down to see whether they have acted altogether according to the outcry that has reached Me; if not, I will take note.”

וַיִּפְּנוּ מִשָּׁם הָאֲנָשִׁים וַיֵּלְכוּ סּוּדְמָה וְאַבְרָהָם עֹדְדָנוּ עֹמֵד לִפְנֵי ה':

The agents went on from there to Sodom, while Abraham remained standing before יהוה.

וַיִּגַּשׁ אַבְרָהָם וַיֹּאמֶר הֲאֵף תִּסְפֶּה צְדִיק עִם־רָשָׁע:

Abraham came forward and said, “Will You sweep away the innocent along with the guilty?

אוּלֵי יֵשׁ חַמְשִׁים צְדִיקִים בְּתוֹךְ הָעִיר הֲאֵף תִּסְפֶּה וְלֹא־תִשָּׂא לְמַקְוֹם לְמַעַן חַמְשִׁים הַצְדִּיקִים אֲשֶׁר בְּקִרְבָּה:

What if there should be fifty innocent within the city; will You then wipe out the place and not forgive it for the sake of the innocent fifty who are in it?

חֲלִלָה לָךְ מַעֲשֵׂת וְכַדְבָּר הַזֶּה לְהַמִּית צְדִיק עִם־רָשָׁע וְהִיא כַצְדִּיק כְּרָשָׁע חֲלִלָה לָךְ הַשֹּׁפֵט כָּל־הָאָרֶץ לֹא יַעֲשֶׂה מִשְׁפָּט:

Far be it from You to do such a thing, to bring death upon the innocent as well as the guilty, so that innocent and guilty fare alike. Far be it from You! Shall not the Judge of all the earth deal justly?”

וַיֹּאמֶר יְהוָה אִם־אֶמְצָא בְּסוּדֹם חַמְשִׁים צְדִיקִים בְּתוֹךְ הָעִיר וְנִשְׂאתִי לְכָל־הַמָּקוֹם בְּעִבְרָם:

And יהוה answered, “If I find within the city of Sodom fifty innocent ones, I will forgive the whole place for their sake.”

וַיַּעַן אַבְרָהָם וַיֹּאמֶר הִנֵּה־נָא הוֹאֵלְתִי לְדַבֵּר אֶל־אֲדֹנָי וְאֲנִי עָפָר וָאֵפֶר:

Abraham spoke up, saying, “Here I venture to speak to my lord, I who am but dust and ashes:

אוּלֵי יִחְסְרוּן חַמְשִׁים הַצְדִּיקִים חֲמִשָּׁה הַתְּשֻׁחִית בַּחֲמִשָּׁה אֶת־כָּל־הָעִיר וַיֹּאמֶר לֹא אֲשַׁחִית אִם־אֶמְצָא שָׁם אַרְבָּעִים וְחַמְשָׁה:

What if the fifty innocent should lack five? Will You destroy the whole city for want of the five?” “I will not destroy if I find forty-five there.”

5. Divine Command Theory

Many people think God commands human beings to be kind because kindness is good and that God himself is always kind because his actions are always in conformity with goodness.

Although this was and still is the most common way of conceiving of the relationship between God and morality, William of Ockham (1280-1349) disagrees. In his view, God does not conform to an independently existing standard of goodness; rather, God himself is the standard of goodness. This means it is not the case that God commands us to be kind because kindness is good. Rather, kindness is good because God commands it. Ockham was a divine command theorist: God's will establishes right and wrong.

Divine command theory has always been unpopular because it carries one very unintuitive implication: if whatever God commands becomes right, and God can command whatever he wants, then God could command us always to be unkind and never to be kind, and then it would be right for us to be unkind and wrong for us to be kind. Kindness would be bad and unkindness would be good! How could this be?

In Ockham's view, God always has commanded and always will command kindness. Nevertheless, it is *possible* for him to command otherwise. This possibility is a straightforward requirement of divine omnipotence: God can do anything that does not involve a contradiction. Of course, plenty of philosophers, such as Thomas Aquinas, insist that it is impossible for God to command us to be unkind simply because then God's will would contradict his nature. For Ockham, however, this is the wrong way to conceive of God's nature. The most important thing to understand about God's nature, in Ockham's view, is that it is maximally free. There are no constraints, external or internal, to what God can will. All of theology stands or falls with this thesis in Ockham's view.

Ockham grants that it is hard to imagine a world in which God reverses his commands. Yet this is the price of preserving divine freedom. He writes,

I reply that hatred, theft, adultery, and the like may involve evil according to the common law, in so far as they are done by someone who is obligated by a divine command to perform the opposite act. As far as everything absolute in these

actions is concerned, however, God can perform them without involving any evil. And they can even be performed meritoriously by someone on earth if they should fall under a divine command, just as now the opposite of these, in fact, fall under a divine command. [*Opera Theologica* V, p. 352]

Internet Encyclopedia of Philosophy

6. ברכות דף לג.

מִתְנִי' הָאוֹמֵר: "עַל קֵן צִפּוֹר יִגְיעוּ רַחֲמֶיךָ", וְ"עַל טוֹב יִזְכָּר שְׁמֶךָ", "מוֹדִים, מוֹדִים, מוֹדִים" — מְשַׁתְּקִין אוֹתוֹ.

MISHNA: Concluding the laws of prayer in this tractate, the mishna raises several prayer-related matters. This mishna speaks of certain innovations in the prayer formula that warrant the silencing of a communal prayer leader who attempts to introduce them in his prayers, as their content tends toward heresy. **One who recites** in his supplication: Just as **Your mercy is extended to a bird's nest**, as You have commanded us to send away the mother before taking her chicks or eggs (Deuteronomy 22:6–7), so too extend Your mercy to us; **and** one who recites: **May Your name be mentioned with the good** or one who recites: **We give thanks, we give thanks** twice, they **silence him**.

גְּמִ' בְּשִׁלְמָא, מוֹדִים, מוֹדִים" מְשַׁתְּקִין אוֹתוֹ — מְשׁוּם דְּמִיחְזִי כְּשִׁתִּי רְשׁוּיֹת. וְ"עַל טוֹב יִזְכָּר שְׁמֶךָ" נְמִי, מְשַׁמַּע עַל הַטּוֹבָה וְלֹא עַל הָרָעָה, וְיִתְנָן: חַיִּיב אָדָם לְבָרֵךְ עַל הָרָעָה כְּשֵׁם שְׁמִבְרַךְ עַל הַטּוֹבָה. אֶלָּא "עַל קֵן צִפּוֹר יִגְיעוּ רַחֲמֶיךָ" מֵאִי טַעֲמָא?

GEMARA: Our mishna cited three instances where the communal prayer leader is silenced. The Gemara clarifies: **Granted**, they silence one who repeats: **We give thanks, we give thanks, as it appears like** he is acknowledging and praying to **two authorities**. **And** granted that **they also silence** one who says: **May Your name be mentioned with the good**, as **clearly** he is thanking God only **for the good and not for the bad**, and we learned in a mishna: **One is required to bless God for the bad just as he blesses Him for the good**. **However**, in the case of one who recites: Just as **Your mercy is extended to a bird's nest**, **why** do they silence him?

פְּלִיגִי בֵּה תִרִי אֲמוֹרָאֵי בְּמַעְרַבָּא, רַבִּי יוֹסֵי בַר אָבִין וְרַבִּי יוֹסֵי בַר זְבִידָא: חַד אָמַר: מִפְּנֵי שְׂמִטִּיל קִנְיָהּ בְּמַעֲשֵׂה בְּרֵאשִׁית. וְחַד אָמַר: מִפְּנֵי שְׁעוֹשָׂה מְדוּתָיו שֶׁל הַקְּדוֹשׁ בְּרוּךְ הוּא רַחֲמִים, וְאִינָן אֲלָא גְזָרוֹת.

Two *amora'im* in Eretz Yisrael disputed this question; Rabbi Yosei bar Avin and Rabbi Yosei bar Zevida; one said that this was because he engenders jealousy among God's creations, as it appears as though he is protesting the fact that the Lord favored one creature over all others. And one said that this was because he transforms the attributes of the Holy One, Blessed be He, into expressions of mercy, when they are nothing but decrees of the King that must be fulfilled without inquiring into the reasons behind them.

(trans. Sefaria)

7. תלמוד ירושלמי (וילנא) מסכת בבא מציעא פרק ב הלכה ה

שמעון בן שטח הוה עסיק בהדא כיתנא אמרין ליה תלמידוי ר' ארפי מינך ואנן זבנין לך חדא חמר ולית את לעי סוגין. ואזלון זבנון ליה חדא חמר מחד סירקאי ותלי ביה חדא מרגלי. אתון לגביה אמרין ליה מן כדון לית את צריך לעי תובן. אמר לון למה אמרין ליה זבנין לך חד חמר מחד סירקאי ותלי ביה חדא מרגלי. אמר לון וידע בה מרה אמרין ליה לא א"ל לון איזל חזר. לא כן אמר רב הונא ביבי בר גוזלון בשם רב התיבון קומי רבי אפילו כמאן דמר גזילו של עכו"ם אסור כל עמא מודיי שאבידתו מותרת. מה אתון סברין שמעון בן שטח ברברין הוה. בעי הוה שמעון בן שטח משמע בריך אלהון דיהודאי מאגר כל הדין עלמא. ויידא אמרה דא רבי חנינה משתעי הדין עובדא רבנין סבייא זבנין חד כרי דחיטין מאילין דאיסרטוס ואשכחון ביה חדא צררא דדינרי וחזרוניה להון אמרין בריך אלהון יהודאי. אבא אושעיה איש טורייא אמרה אהין להן. לי אהן מהו חשוב עלי אית לי טבין מיניה אית לי סוגין מיניה. א"ל אורייתא גזרת דנחזור אמר בריך אלהון דיהודאי. 1. Jerusalem Talmud, Bava Metzia 2:5.

Shimon ben Shetah was dealing with flax [as his profession]. His students said to him: 'Master, leave it behind and we will buy you a donkey and you won't need to work so much,' and they bought him a donkey from an Arab, and it had a jewel hanging from it[s neck]. They came to him and said him: 'from now on you won't have to work again.' He said to them: 'why?' They said to him: ' We bought you a donkey from an Arab and it had a jewel hanging from it[s neck]!' He said to them: 'Did the owner know?' They said to him: 'no.' He said to them: 'go return it.' [Later students objected to this story:] But didn't Rav Huna Bibi bar Gozlon say in the name of Rav, said they responded before Rabbi, even according to the one who says an item stole from a gentile is prohibited, all agree that an item lost by a

gentile is permitted!?’ ‘What, do you think Shimon ben Shetah is a barbarian? Shimon wished to hear ‘blessed be the God of the Jews’ more than all the wages of this world!’ Where did he [Shimon ben Shetah] know this from? Rabbi Hanina was dealing with the following situation: The elderly rabbis bought a kri of wheat from certain soldiers, and found inside it a sack of gold coins and returned it to them. They said: ‘Blessed be the God of the Jews!’ Abba Oshayah of Turaya [was in a similar situation where he found jewels in the queen’s wash] and she said: ‘They are yours. What are they worth to me? I have many and better things than that!’ He said: ‘The Torah decrees that we must return it!’ She said: “Blessed be the God
’.of the Jews

8. Maimonides, Guide for the Perplexed 3:48

The same reason applies to the law which enjoins that we should let the mother fly away when we take the young. The eggs over which the bird sits, and the young that are in need of their mother, are generally unfit for food, and when the mother is sent away she does not see the taking of her young ones, and does not feel any pain. In most cases, however, this commandment will cause man to leave the whole nest untouched, because [the young or the eggs], which he is allowed to take, are, as a rule, unfit for food.

If the Law provides that such grief should not be caused to cattle or birds, how much more careful must we be that we should not cause grief to our fellowmen. When in the Talmud (Ber. p. 33b) those are blamed who use in their prayer the phrase, “Thy mercy extendeth to young birds,” it is the expression of the one of the two opinions mentioned by us, namely, that the precepts of the Law have no other reason but the Divine will. We follow the other opinion.
(Friedlander trans.)

9. Nahmanides on the Torah: Deuteronomy 22:6

IF A BIRD’S NEST CHANCE TO BE BEFORE THEE. This also is an explanatory commandment, of the prohibition *ye shall not kill it [the dam] and its young both in one day*, because the reason for both [commandments] is that we should not

have a cruel heart and be discompassionate, or it may be that Scripture does not permit us to destroy a species altogether, although it permits slaughter [for food] within that group. Now, he who kills the dam and the young in one day or takes them when they are free to fly [it is regarded] as though he cut off that species. Now, he [Rabbi Moshe ben Maimon] wrote in the *Moreh Nebuchim* that the reason for the commandment to release the mother bird when taking its nest and the prohibition against killing the dam with its young on one day is in order to admonish us against killing the young within the mother's sight, for animals feel great distress under such circumstances. There is no difference between the distress of man and the distress of animals for their young, since the love of the mother and her tenderness to the children of her womb are not the result of reasoning or [the faculty of intelligent] speech, but are produced by the faculty of mental images which exists among animals even as it is present in man. But if so the main prohibition in killing the dam and its young applies only when killing [first] the young and [then] the dam [but not vice versa, whereas the Torah forbids it to be done either way]! But it is all an extraordinary precaution, and it is more correct [to explain them as prohibitions] to prevent *us* from acting cruelly. And the Rabbi [Moshe ben Maimon] said further: "Do not contradict me by quoting the saying of the Sages, 'He who says in his prayer: Even to a bird's nest do Thy mercies extend [etc., they silence him,' which would seem to imply that there is no reason other than the Will of G-d for the commandment to release a dam when taking its nest], for that is one of two opinions, namely, the opinion of the Sage who holds that the commandments [of the Torah] have no other reason but the Will of the Creator. We follow the second opinion that there is a reason for all commandments." And the Rabbi [Moshe ben Maimon] raised a difficulty from a text in *Bereshith Rabbah* [which contradicts his theory that there is a reason for every commandment]. The text reads: "And what difference does it make to the Holy One, blessed be He, whether an animal is slaughtered from the front of the neck or the back? Surely you must say the commandments have been given only for the purpose of refining [disciplining] men through them, as it is said, *Every word of G-d is refined.*"

Now, this theory, categorically stated by the Rabbi [Moshe ben Maimon] concerning the commandments that there is a reason for them, is indeed very clear. There is a reason, benefit, and improvement for man in each of them, aside from the reward by Him Who commanded it, blessed be He! Our Sages have already stated: "Why were the reasons for the commandments not revealed? etc." And they further interpreted: "*And for stately clothing* — this refers to one who

uncovers matters that were concealed by *the Ancient of days*. And what are these matters? They are the reasons for [the commandments of] the Torah.” The Rabbis have further expressed themselves on the subject of the Red Heifer concerning which Solomon said, “I achieved [a knowledge of the reasons for] everything, but the section of the Red Heifer I examined, inquired into, and searched; *All this have I tried by wisdom; I said, ‘I will get wisdom,’ but it was far from me*. And Rabbi Yosei the son of Rabbi Chanina said: The Holy One, blessed be He, said to Moses, ‘To you I reveal the reason of the Red Heifer, but for others it is a statute [a commandment for which we know no reason].’ For it is written, *And it shall come to pass in that day, that there shall not be light, but heavy clouds ‘v’kipaon’ (and thick)*. The word is spelled *yekipaon*, intimating that matters concealed from you in this world are destined ‘to be revealed’ in the World to Come, like a blind man who suddenly sees, as it is written, *And I will bring the blind by a way that they knew not*, and it is further written, *These things have I done and I did not leave them undone*, for I have done them already to Rabbi Akiba” [meaning that the explanations were revealed to Rabbi Akiba].

Thus the Rabbis explained that our lack of knowledge of the reasons of [the commandments of] the Torah is but a barrier in our minds, and that the reason for the most difficult of the commandments [i.e., the Red Heifer] has already been revealed to the Sages of Israel [such as Rabbi Akiba, as mentioned in the above Midrash]. There are many such texts among the words of the Rabbis, and Torah and Scripture, which teach to that effect; and the Rabbi [Moshe ben Maimon] mentioned some of them. But those Agadic [homiletic] statements, presenting difficulty to the Rabbi, are in my opinion, intended to express another thought as follows:

The benefit from the commandments is not derived by the Holy One Himself, exalted be He. Rather, the advantage is to man himself, to withhold from him physical harm or some evil belief, or unseemly trait of character, or to recall the miracles and wonders of the Creator, blessed be He, in order to know the Eternal. It is this [which the Rabbis intended in saying] that the commandments were given “for the purpose of refining men,” that they may become like “refined silver,” for he who refines silver does not act without purpose, but to remove therefrom any impurity. So, also, the commandments eliminate from our hearts all evil belief, and [are given] in order to inform us of the truth and to recall it always. Now this very same Agadah [homily] is mentioned in the Yelamdeinu in the section of *These are the living things*: “And what difference does it make to the Holy One, blessed be He, whether one eats of an animal which is ritually

slaughtered or if he just stabs it? Do you benefit Him or harm Him at all? Or what does it matter to Him if one eats clean animals or unclean? *If thou art wise, thou art wise for thyself.* Surely the commandments have been given only to refine men, as it is said, *The words of the Eternal are pure words,* and it is further said, *Every word of G-d is refined.* Why? So that [the word of G-d] should protect you.” Thus it is clearly stated here that the Rabbis [in this Midrash], meant to say merely that the benefit [accruing from observance of the commandments] is not for His sake exalted be He, [nor] that He is in need of the light of the candelabrum as one might think, or that He needs the food of the offerings and the odor of the incense as might appear from their simple meanings. Even regarding *the memorial He hath made for His wonderful works,* that He commanded us to perform in memory of the Exodus and Creation, the benefit is not for Him, but so, that we should know the truth and be meritorious enough to be worthy that He protects us, for our utterances and remembrances of His wonders *are accounted by Him as things of nought, and vanity.* And the Midrash brought proof from [the law specifying] slaughter by cutting the neck in front or in the back, meaning to state that all the benefits are to us and not to the Holy One, blessed be He, because it is impossible to say concerning slaughter that there is more benefit and glory to the Creator, blessed be He, by cutting the neck in front than by cutting it in the back or by stabbing the animal. Rather, all these advantages are to us — to lead us in paths of compassion even during [the process of] slaughtering. And then the Rabbis brought another proof: “Or what does it matter to Him if one eats clean things,” — that is, foods permissible to the eater — “or eats unclean things,” that is, forbidden food concerning which the Torah declared *they are unclean unto you.* However, He implied that [these laws were given to us] so that we might develop a fine soul and be wise men perceptive to the truth. By quoting the verse, *If thou art wise, thou art wise for thyself* the Rabbis [in the above Midrash] mentioned the principle that the commandments pertaining to rites such as slaughter by [cutting of] the neck are to teach us traits of good character. The Divinely ordained commandments which define the species [of animals and birds which are permissible to us] are to refine our souls, just as the Torah has said, *and ye shall not make your souls detestable by beast, or by fowl, or by any thing wherewith the ground teemeth, which I have set apart for you to hold unclean.* If so, all the commandments are solely to our advantage. This is as Elihu said, *If thou hast sinned, what doest thou against Him? And if thy transgression be multiplied, what doest thou unto Him? And again he states, If thou be righteous, what givest thou Him? Or what receiveth He of thy hands?* This is a consensus in all the words of

our Rabbis. Thus they asked in Yerushalmi Nedarim whether they may open the way [to release one from a vow or oath] by reason of the honor due to G-d in matters between man and G-d. On this question the Rabbis answered [there]: “What is an example of [a vow being released because of] the honor due to G-d? [If you say that it is a case where he swore] ‘I shall not make a Booth, I shall not take the palm-branch, I shall not put on phylacteries’ — but do you call this ‘by reason of the honor due to G-d?’ It is for oneself that [the observance of the commandments] helps, just as it is said, *If thou be righteous, what givest thou Him? Or what receiveth He of thy hands? If thou hast sinned, what doest thou against Him? And if thy transgression be multiplied, what doest thou unto Him?*” Thus the Rabbis have explained that even the palm-branch, the Booth, and the phylacteries concerning which He commanded that they *shall be for a sign upon thy hand, and for frontlets between thine eyes; for by strength of hand the Eternal brought us forth out of Egypt* — are not ordained to honor G-d, blessed be He, but to have compassion on our souls. And the Sages have already arranged it for us in the [Closing] Prayer on the Day of Atonement, stating: “Thou hast distinguished man from the beginning, and hast recognized him [to be privileged] to stand before Thee, for who shall say unto Thee, ‘What doest Thou?’ and if he be righteous what can he give Thee?” Similarly, it states in the Torah, *which I command thee this day for thy good*, as I have explained. So also, *And the Eternal commanded us to do all these statutes, to fear the Eternal our G-d, for our good always*. And the intent in all these expressions is “for our good,” and not for His, blessed and exalted be He! Rather, everything we have been commanded is so that His creatures be refined and purified, free from the dross of evil thoughts and blameworthy traits of character.

So, too, what the Rabbis have stated, “Because he treats the ordinances of G-d like expressions of mercy, whereas they are decrees” means to say — that it was not a matter of G-d’s mercy extending to the bird’s nest or the dam and its young, since His mercies did not extend so far into animal life as to prevent us from accomplishing our needs with them, for, if so, He would have forbidden slaughter altogether. But the reason for the prohibition [against taking the dam with its nest, or against killing the dam with its young in one day] is to teach *us* the trait of compassion and that we should not be cruel, for cruelty proliferates in man’s soul as it is known that butchers, those who slaughter large oxen and asses are *men of blood; they that slaughter men*, are extremely cruel. It is on account of this [cruelty] that the Rabbis have said: “The most seemly among butchers is a partner of Amalek.” Thus these commandments with respect to cattle and fowl are not [a

result of] compassion upon them, but they are decrees upon us to guide us and to teach us traits of good character. So, too, the Rabbis refer to all commandments of the Torah — positive and negative — as “decrees,” as they said in the parable of “the king who entered a country, and his attendants said to him, ‘Promulgate decrees upon them.’ He, however, refused, saying, ‘When they will have accepted my sovereignty, I will promulgate decrees upon them.’ Similarly did the Holy One, blessed be He, [say to Israel], ‘You have accepted My sovereignty: *I am the Eternal thy G-d, accept My decrees: Thou shalt have no other gods etc.’*” (trans. C. Chavel)

10. Maimonides, *Shemoneh Perakim*- Ch. 6

PHILOSOPHERS maintain that though the man of self-restraint performs moral and praiseworthy deeds, yet he does them desiring and craving all the while for immoral deeds, but, subduing his passions and actively fighting against a longing to do those things to which his faculties, his desires, and his psychic disposition excite him, succeeds, though with constant vexation and irritation, in acting morally. The saintly man, however, is guided in his actions by that to which his inclination and disposition prompt him, in consequence of which he acts morally from innate longing and desire. Philosophers unanimously agree that the latter is superior to, and more perfect than, the one who has to curb his passions, although they add that it is possible for such a one to equal the saintly man in many regards. In general, however, he must necessarily be ranked lower in the scale of virtue, because there lurks within him the desire to do evil, and, though he does not do it, yet because his inclinations are all in that direction, it denotes the presence of an immoral psychic disposition.

Solomon, also, entertained the same idea when he said, (Proverbs 21:10) "The soul of the wicked desireth evil", and, in regard to the saintly man's rejoicing in doing good, and the discontent experienced by him, who is not innately righteous, when required to act justly, he says, (Proverbs 21:15) "It is bliss to the righteous to do justice, but torment to the evil-doer". This is manifestly an agreement between

Scripture and philosophy. When, however, we consult the Rabbis on this subject, it would seem that they consider him who desires iniquity, and craves for it (but does not do it), more praiseworthy and perfect than the one who feels no torment at refraining from evil; and they even go so far as to maintain that the more praiseworthy and perfect a man is, the greater is his desire to commit iniquity, and the more irritation does he feel at having to desist from it. This they express by saying, (Sukkah 52a) "Whosoever is greater than his neighbor has likewise greater evil inclinations". Again, as if this were not sufficient, they even go so far as to say that the reward of him who overcomes his evil inclination is commensurate with the torture occasioned by his resistance, which thought they express by the words, (Pirkei Avot 5:23) "According to the labor is the reward". Furthermore, they command that man should conquer his desires, but they forbid one to say, "I, by my nature, do not desire to commit such and such a transgression, even though the Law does not forbid it". Rabbi Simeon ben Gamaliel summed up this thought in the words, "Man should not say, 'I do not want to eat meat together with milk; I do not want to wear clothes made of a mixture of wool and linen; I do not want to enter into an incestuous marriage', but he should say, 'I do indeed want to, yet I must not, for my father in Heaven has forbidden it'".

At first blush, by a superficial comparison of the sayings of the philosophers and the Rabbis, one might be inclined to say that they contradict one another. Such, however, is not the case. Both are correct and, moreover, are not in disagreement in the least, as the evils which the philosophers term such and of which they say that he who has no longing for them is more to be praised than he who desires them but conquers his passion are things which all people commonly agree are evils, such as the shedding of blood, theft, robbery, fraud, injury to one who has done no harm, ingratitude, contempt for parents, and the like. The prescriptions against these are called commandments (mitzvot), about which the Rabbis said, (Yoma 67b:8) "If they had not already been written in the Law, it would be proper to add them". Some of our later sages, who were infected with the unsound principles of the Mutakallimun, called these rational laws. There is no doubt that a soul which has the desire for, and lusts after, the above-mentioned misdeeds, is imperfect, that a noble soul has absolutely no desire for any such crimes, and experiences no struggle in refraining from them. When, however, the Rabbis maintain that he who overcomes his desire has more merit and a greater reward (than he who has no temptation), they say so only in reference to laws that are ceremonial prohibitions. This is quite true, since, were it not for the Law, they would not at all be considered transgressions. Therefore, the Rabbis say that

man should permit his soul to entertain the natural inclination for these things, but that the Law alone should restrain him from them. Ponder over the wisdom of these men of blessed memory manifest in the examples they adduce. They do not declare, "Man should not say, 'I have no desire to kill, to steal and to lie, but I have a desire for these things, yet what can I do, since my Father in heaven forbids it!'" The instances they cite are all from the ceremonial law, such as partaking of meat and milk together, wearing clothes made of wool and linen, and entering into consanguinuous marriages. These, and similar enactments are what God called (Leviticus 18:4) "my statutes" (hukoth), which, as the Rabbis say are (Yoma 67b) "statutes which I (God) have enacted for thee, which thou hast no right to subject to criticism, which the nations of the world attack and which Satan denounces, as for instance, the statutes concerning the red heifer, the scapegoat, and so forth". Those transgressions, however, which the later sages called rational laws are termed commandments (mitzvot), as the Rabbis explained. It is now evident from all that we have said, what the transgressions are for which, if a man have no desire at all, he is on a higher plane than he who has a longing, but controls his passion for them; and it is also evident what the transgressions are of which the opposite is true. It is an astonishing fact that these two classes of expressions should be shown to be compatible with one another, but their content points to the truth of our explanation. This ends the discussion of the subject-matter of this chapter.

11. **Devarim 6:18** And you shall do the right and the good in the eyes of God, so that He shall do well with you, and you shall come and inherit the good land that God promised to your ancestors.

Ramban on Devarim 6:18 "And you shall do the right and the good in the eyes of God": Plainly, this means that you shall observe God's commands, statutes, and laws, and intend in doing so to do what is good and right in God's eyes alone, "and to benefit you," as a promise, for in doing the good in God's eyes it will be good for you, for God acts kindly with the good and upright in their hearts. But our sages have a nice teaching, that this [verse] refers to arbitration and acting within the line of the law, meaning that originally God said to observe the laws and statutes as 3 shlomo zuckier@gmail.com commanded, and now it says that even regarding that which God did not command you, be sure to do what is good and right in God's eyes, for God loves the good and the

right. And this is significant idea. For it would be impossible to mention in the Torah all the behaviors of a person with their neighbors and fellows and all his business dealings and all the matters of civilization and states, but after having stated many, such as “do not go as a tale-bearer,” (Lev. 19:16) “do not take revenge,” (Ibid. 18) “do not stand upon your fellow’s blood,” (Ibid. 16) “do not curse the deaf,” (Ibid. 14) “rise before the elderly,” (Ibid. 32) and so on, [the Torah] goes back to say generally that one should do the good and right in all matters, including through arbitration and acting within the line of the law, and the laws of neighboring properties, and even that which is said (Yoma 86) “his countenance is fine and his speech is pleasant with everyone,” such that in every regard he shall be called perfect and upright

ר' עובדיה מברטנורא מסכת אבות פרק א משנה א

12. משה קבל תורה מסיני - אומר אני, לפי שמסכת זו אינה מיוסדת על פירוש מצוה ממצות התורה כשאר מסכתות שבמשנה, אלא כולה מוסרים ומדות, וחכמי אומות העולם ג"כ חברו ספרים כמו שבדו מלבם בדרכי המוסר כיצד יתנהג האדם עם חברו, לפיכך התחיל התנא במסכת זו משה קבל תורה מסיני, לומר לך שהמדות והמוסרים שבזו המסכתא לא בדו אותם חכמי המשנה מלבם אלא אף אלו נאמרו בסיני:

R. Ovadiah Barternura to Avot 1:1 Moshe received the Torah at Sinai – I say that since this tractate is not organized around the explication of a commandment in the Torah, like other tractates of Mishnah, but it is rather all messages of ethics and virtue, and the scholars of the nations of the world also wrote books that they made up with paths of ethics, how a person should interact with their fellow, for that reason the Tanna opened this tractate with “Moshe received the Torah at Sinai,” to teach you that the ethics and virtues in this tractate were not made up by the scholars of the Mishnah but were also said at Sinai.

. חזון איש, אמונה ובטחון, פרק ג. 12 .

חובות המוסריות המה לפעמים גוף אחד עם פסקי ההלכה, וההלכה המכרעת את האסור ואת המותר של תורת המוסר היא... שגדרי הגזל והחמס אינן נפתרין ע"פ דעת בני אדם רק ע"פ חקי התורה וכל שהוא נגד הדין הוא גזל אף שאין בני אדם מסכימים עליהם בבחינת הרגש, וכל מעשה שהוא בדין הוא קיום משפט, אף שזה נגד דעות האנושות Hazon Ish, Emunah U-Vitahon, chapter 3 Moral duties are at times synonymous with halakhic

rulings, and Halakha determines moral right and wrong... Human beings do not decide what is robbery and injustice, only the laws of the Torah do. Any act opposed to these laws is robbery, even if human beings agree with it, and any act within these laws is a fulfillment of justice, even if contrary to human views...

13. Yeshayahu Leibowitz, "Religious Praxis: The Meaning of Halakhah," from Judaism, Human Values, and the Jewish State, ed. Eliezer Goldman (Harvard UP: 1995)

If the Mitzvoth are in the service of God, not of man, they may not be directed toward the satisfaction of human wants. Any attempt to ground them in human needs - cognitive, moral, social, and national - deprives them of their religious meaning. If the commandments were expressions of philosophic cognition, had a moral function, or were directed at the perfection of the social order or the conservation of the people of Israel, the observant Jew would be doing service to himself, to society, or to the nation. Instead of serving God he would be utilizing God's Torah for his own benefit as an instrument for satisfying his needs. The foregoing considerations apply equally to the ethical importance the secularists attribute to the Torah and its commandments. Ethics, when regarded as unconditionally asserting its own validity, is an atheistic category par excellence. A person who is ethical in this sense regards man as the supreme end and value, that is, deifies man. A person who perceives man as one among God's creatures and keeps in mind the verse, "I have set God always before me," cannot accept ethics as the overriding norm or criterion. Being moral, from the standpoint of a secular ethic, can have only either of two meanings; directing man's will in accordance with man's knowledge of reality - the ethics of Socrates, Plato, Aristotle, the Epicureans and especially the Stoics, and among the later philosophers Spinoza; or directing man's will in accordance with man's recognition of his duty - the ethics of Kant and the German idealists. Among the passages of the Shema we find the words: "that you seek not after your own hearts and your own eyes": "after your own hearts" is the negation of Kantian ethics; "after your own eyes" is the negation of Socrates'. The admonition: "I am the Lord your God" follows shortly thereafter. The Torah does not recognize moral imperatives stemming from knowledge of natural reality or from awareness of man's duty to his fellow man. All it recognizes are Mitzvoth, divine imperatives. The Torah and the prophets never appeal to the human conscience, which harbors idolatrous

tendencies. No equivalent of the term "conscience" appears in Scripture. The counsel of conscience is not a religious concept. The "God in one's heart" which humanist moralists sometimes invoke is a "strange god." Halakhah as a religious institution cannot admit the category of the ethical. Needless to say, it cannot admit the utilitarian justification, whether it be for the good of individuals, of society, or of the nation. "You shall love your neighbor as yourself" is the great rule in the Torah not because it is a precept transcending the formalism of law and above the Mitzvoth but precisely because it appears as one of the 613 Mitzvoth. As a guide rule, "You shall love your neighbor as yourself" is not specific to Judaism. Similar precepts were laid down in writing by thinkers who were not influenced by Judaism and were not even acquainted with it, by the wise men of China, India, and Greece. Moreover, "You shall love your neighbor as yourself" does not, as such, occur in the Torah. The reading is: "You shall love your neighbor"

14.