



# Modern orthodoxy and morality: an uneasy partnership

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Received: 5 June 2019 / Accepted: 4 February 2020  
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## Abstract

Modern orthodoxy often perceives itself and is perceived by others as a movement which grants more importance to moral considerations in its interpretation of halakha and in its general worldview than does the ultra-orthodox movement. Accordingly, modern orthodox rabbis are often referred to as more “moderate” than their ultra-orthodox counterparts, a term which seems to imply that they are more open to moral arguments and more likely to adopt, or to develop, moral interpretations of halakha. A study of some central figures like Walter Wurzburger, Eliezer Berkovits and Joseph B. Soloveitchik, however, indicates that the modern orthodox approach to morality is much more ambivalent. The purpose of this paper is to discuss this ambivalence and to speculate on its source.

**Keywords** Jewish ethics · Modern orthodoxy · Euthyphro dilemma · Soloveitchik · Leibowitz

## Introduction

The *Euthyphro* dilemma as understood in contemporary philosophy forces a dilemma between two assumingly exclusive and exhaustive horns; either, in some sense, the validity of morality depends on God or it is independent of God. Those who opt for the former subscribe to “divine command morality.” In their view, if God did not exist, or if He had issued different commands than He actually did, there would have been no moral requirements—or they would have been different from what they actually are. For those who subscribe to the latter view, a world without God would include more or less the same moral requirements and values as the actual world (which is assumed by both camps to include God).

Elsewhere<sup>1</sup> it has been shown that while in both Muslim and Christian traditions it is possible to identify prominent thinkers who hold the view that morality depends

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<sup>1</sup> See Avi Sagi and Daniel Statman, “Divine Command Morality and the Jewish Tradition,” *Journal of Religious Ethics* 23 (1995): 49–68.

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on God's will, such a view is almost completely absent in the Jewish tradition. Given the religious appeal of this view and the historical influences of these two traditions on Judaism, this finding is surprising and meaningful. It seems to say something about the unique value ascribed to the ethical in the Jewish tradition. If God does not determine morality then, in a sense, He too is subject to its requirements, as indicated in familiar sources in both the Hebrew Bible and in the Talmud.<sup>2</sup>

If God commands X because of X's intrinsic value, that would seem to entail a worldview in which believers are advised to seek moral guidance when seeking normative guidance instead of consulting religious law which becomes redundant in the sphere of morality. (That was, of course, Plato's original point in posing the dilemma: If the gods love the pious because it is pious, then their love is not part of the definition of piety and can be ignored when thinking about what piety means.) But that is not the case. Accepting the intrinsic value of morality is consistent with assuming that human beings depend on religion to gain reliable moral knowledge and to overcome their weak inclinations. These forms of dependence fall under what Sagi & Statman call the 'weak dependence' of morality on religion, which concerns not the very existence or validity of moral norms, but the ability of human beings to know them ("epistemic dependence") or to comply with them ("dependence of moral activity"). Moreover, one might argue that there is religious value in an attitude that treats God's commandments as infinitely deep or sublime, essentially transcending human understanding.<sup>3</sup> Yair Lorberbaum recently pointed to a significant stream in Jewish thought prevalent since the fourteenth century that aims at what he calls "sublimization" of divine commandments which entails opposition to attempts to provide moral or other arguments in their favour.

Thus, the rejection of divine command morality by the Jewish tradition leaves a lot open regarding the status of morality and the relation between moral requirements and divine commandments. While many rabbis and thinkers sought to understand the moral and rational aims of Jewish law and at times relied on this understanding in their interpretation of the law,<sup>4</sup> others sublimized the commandments, as

<sup>2</sup> See especially Genesis 18:23–32. The Biblical and Talmudic sources expect God to behave in accordance with (what they perceive as) the dictates of justice, and when, apparently, He doesn't, for instance, when He seems to punish the righteous together with the wicked, they make efforts to explain how this could be morally justified. See Ephraim Urbach, *The Sages: Their Concepts and Beliefs* (Jerusalem: The Magnes Press, 1987), ch. 15. The question of whether in Judaism God determines morality is close to—maybe identical to—the question of whether Judaism recognizes the notion of natural law. While ultra-orthodox rabbis tend to answer in the negative to this question (see David Bleich, "Judaism and Natural Law," *Jewish Law Annual* 7 [1988]: 5–42), modern orthodox thinkers answer in the positive (see David Novak, *Natural Law in Judaism*, Cambridge: Cambridge University Press, 1998). See also my "Natural Law and Judaism" (Unpublished Manuscript).

<sup>3</sup> See Yair Lorberbaum, "Halakhic Religiosity of Mystery and 'Sublimization', Halakhic Religiosity of Obedience and Enslavement, and Other Reservations About the Search for Reasons to the Commandments," *Shenaton Ha-Mishpat Ha-Ivri (The Jewish Law Annual)* 32 (2018): 69–114 (Heb.). Maimonides saw the religious attraction of the view that the commandments have no basis other than God's will though he regarded it as perverse and rejected it in the strongest terms. See *Guide for the Perplexed*, 3: 31.

<sup>4</sup> See especially Maimonides in the 3rd part of the *Guide* and his teleological interpretations of *halakha* in his Code. See Isadore Twersky, *Introduction to the Code of Maimonides* (New Haven, CT: Yale University Press, 1982), Ch. Six.

it were, and insisted on the duty to obey them in their literal sense, shying away from any attempt to re-interpret them in accordance with the assumed values and goals of the Torah in general.<sup>5</sup> In the last century or so, these two conflicting approaches map onto the division between the two large Jewish groups committed to Jewish law (*halakha*); the modern-orthodox and the ultra-orthodox (also known as the *charedi* group).<sup>6</sup> While the latter tend to “sublimize” the law and to advocate obedience to the law according to its literal interpretation,<sup>7</sup> the former emphasize the centrality of the values underlying the law and the necessity of interpreting it in their light.

Indeed, modern orthodoxy often perceives itself and is perceived by others as granting more importance to moral considerations in its interpretation of *halakha*—as well as in its general worldview—than does the ultra-orthodox movement. Modern orthodoxy is thought to be closer than the latter to liberal and humanistic ways of thought and more sensitive to discrimination, violation of rights and so on. Modern orthodox rabbis are thought to be more open to moral arguments and more likely to adopt, or to develop, moral interpretations of *halakha*.

The purpose of this article is to show that the modern orthodox approach to morality is more ambivalent than this view seems to imply. (The ultra-orthodox approach is probably also more nuanced, but any investigation there will have to wait for some other day.) In Sect. 2, the positive attitude of modern orthodoxy to morality is explored and its various elements are spelled out while Sect. 3 presents the tensions and ambivalences within this view.

## The central role of morality according to the modern-orthodox view

Let me start by offering a few sources from prominent modern orthodox thinkers about the essential role of morality in Judaism. In his book, *Ethics of Responsibility*,<sup>8</sup> Walter Wurzburger argues that the striving towards moral perfection is the main goal of traditional Judaism.<sup>9</sup> “The Jewish conception of piety,” he says, “places special emphasis upon ethical conduct. The Torah defines ‘the way of God’ as the ‘doing of righteousness and justice.’”<sup>10</sup> This definition comes through very clearly in the prophets and continues in the post-Biblical period, a time in which “classical exponents of Rabbinic Judaism such as Hillel and Rabbi Akiva viewed moral

<sup>5</sup> For many references, see Lorberbaum, *ibid*.

<sup>6</sup> For the ultra-orthodox worldview and way of life, see Samuel Heilman, *Defenders of the Faith: Inside Ultra-Orthodox Jewry* (New York: Schocken Books, 1992) and Benjamin Brown, *The Haredim: A Guide to their Beliefs and Sectors* (Holon: Am Oved and the Israeli Democracy Institute, 2017) (Heb.).

<sup>7</sup> See, for instance, Rabbi Eliyahu Dessler, *A Letter from Elijah*, vol. 3, ed. A. Carmel and A. Halperin (Bnai Brak, Israel, 1974) (Heb.).

<sup>8</sup> Walter Wurzburger, *Ethics of Responsibility: Pluralistic Approaches to Covenantal Ethics* (Philadelphia: The Jewish Publication Society, 1994).

<sup>9</sup> Rabbi Walter S. Wurzburger (1920–2002) was Adjunct Professor of Philosophy at Yeshiva University and, during his career, headed both the Rabbinical Council of America and the Synagogue Council of America.

<sup>10</sup> Wurzburger, *Ethics of Responsibility*, 9.

imperatives as *the very essence of the entire Torah*.<sup>11</sup> The endeavor toward moral perfection is an attempt to imitate the ways of God which are morally perfect. The perception of God as an ideal of moral perfection is, so Wurzbürger argues, the novelty of Jewish monotheism:

Its novelty consists not primarily in the substitution of the belief in one God for the plurality of gods worshipped in polytheism. What was even more revolutionary in the Jewish conception of monotheism was, as against the pagan emphasis upon divine power, the attribution of moral perfection to God.<sup>12</sup>

Whether this historical claim about the revolutionary aspect of monotheism is accurate or not is irrelevant to the present discussion.<sup>13</sup> What is important is that this is how it was perceived by Wurzbürger and what this says about the centrality of ethics according to his view of Judaism.

A similar emphasis on the importance of morality in Judaism is to be found in Eliezer Berkovits (1908–1992). Berkovits quotes the well-known verses from Jeremiah 9:22–23 which exhort the people not to glory in wisdom, might or riches, but in the knowledge of God, “who exercises mercy, justice and righteousness in the earth,” for in these things God delights. To this Berkovits adds:

That God relates Himself to the world because He delights “in these things” establishes the *imitatio dei* as the divine law for man. Because “these things” are desired by God, the relational attributes become the example to follow.<sup>14</sup>

In Berkovits’s view, this reading of Jeremiah emphasizes “the ethical significance of the law of God.”<sup>15</sup> The essence of Jewish imitation of God is achieved by the individual relating himself or herself to the world outside by caring involvement. This ideal of imitation does not imply that the law is identical with ethics,<sup>16</sup> but it does “invest the law with an ethical purpose.”

An emphasis on morality is prevalent in the writings of Emanuel Rackman too.<sup>17</sup> Just to illustrate: Rackman refers to the debate on whether the label ‘centrist’ isn’t more appropriate than ‘modern orthodox.’ He prefers the latter because on some issues, he says, he is not at all in the center: “Where ethics is concerned,” he says, “I am an extremist.”<sup>18</sup>

<sup>11</sup> *Ibid.*, italics added.

<sup>12</sup> *Ibid.*, 2.

<sup>13</sup> Yehezkel Kaufman is known to have rejected it, arguing that the novelty of the God of the Bible lies not in His moral perfection but in His omnipotence and unlimited sovereignty.

<sup>14</sup> Eliezer Berkovits, *God, Man and History* (New York: Jonathan David Publishers, 1959), 86.

<sup>15</sup> *Ibid.*, 89.

<sup>16</sup> *Ibid.*

<sup>17</sup> Emanuel Rackman (1910–2008) served as a rabbi in New York and—among many other roles—as provost of *Yeshiva University*, the flagship academic institute of American modern orthodoxy, as well as president and then chancellor of Bar-Ilan university in Israel which is the Israeli counterpart of *Yeshiva University*.

<sup>18</sup> Emanuel Rackman, *Modern Halakhah for Our Time* (Hoboken, NJ: Ktav Publishing House, 1995), 64.

As indicated in the Introduction, this emphasis on the moral nature of the Torah is tightly connected to the view that morality is independent of God. This is so because if morality depended on God, then praising Judaism (or any other religion for that matter) as moral would amount to empty tautology. If God determines morality, then the claim that whatever God proclaims is moral becomes trivial and insignificant. But the thinkers mentioned above wish to say something significant about the Torah when they propose that it is invested with an ethical purpose. Hence they surely reject divine command theories of morality. Indeed, referring explicitly to the *Euthyphro* dilemma, Wurzburger says that what makes an action right or good is not the fact that it is commanded by God; “On the contrary, it is commanded by God because it is right or good.”<sup>19</sup> Similar claims against divine command theories of morality are also found in works by other modern orthodox writers.<sup>20</sup>

Note that the emphasis on the moral nature of Judaism also assumes the epistemological independence of moral knowledge of divine revelation. Had our moral knowledge been wholly derived from the Torah, we would have been in no position to morally evaluate its laws or to praise their moral message. Hence, the views under discussion must assume that human beings have the epistemic capacity to know good and evil, right and wrong, without revelation.

Another prominent feature of the view under consideration is an emphasis on the non-formalistic nature of the Torah, by which I mean (a) that *halakha* is not merely a list of decrees, but has some underlying goal (or goals) which these decrees are meant to realize (b) that in the interpretation and implementation of *halakha*, its general values and goals, in particular the moral ones, should be consulted. In other words, applying *halakha* to concrete questions in a changing world is not a simple deduction from a list of premises on the basis of given rules of inference, but involves a complex weighing of halakhic and meta-halakhic considerations<sup>21</sup>—with an eye on the expected results of the various interpretative options on the lives of the involved individuals and of the entire Jewish community.

In their rejection of a formalistic perception of *halakha*, modern orthodox thinkers are responding, implicitly and at times explicitly, to the Christian allegation against Jewish legalism. To counter this allegation is a main goal of Wurzburger’s book, a goal which he makes clear in his opening lines:

It is generally assumed that traditional Judaism constitutes a purely legalistic religion that revolves exclusively around obedience to *Halakha*. In this book, I hope to dispel this misconception and demonstrate that Jewish piety involves

<sup>19</sup> Wurzburger, *Ethics of Responsibility*, 7.

<sup>20</sup> Berkovits, *God, Man and History*, 90–91; Aharon Lichtenstein, “Does Jewish Tradition Recognize an Ethic Independent of *Halakha*?” in Menachem Kellner (ed.), *Contemporary Jewish Ethics* (New York: Sanhedrin Press, 1979).

<sup>21</sup> For this distinction, see, for instance, Avinoam Rosenak (ed.), *Halakhah, Meta-Halakhah and Philosophy: A Multi Disciplinary Perspective* (Jerusalem, The Magnes Press and the Van Leer Press, 2011) (Heb.). It more or less corresponds to the legal distinction between rules and principles (or values). For instance, a halakhic norm is the prohibition to light a fire on the Sabbath or the injunction to return a lost goat to its owner. A meta-halakhic norm is the requirement to maintain the character of the Sabbath as a day of rest or as a holy day, or the requirement to pursue justice.

more than meticulous adherence to the various rules and norms of religious law; it also demands the cultivation of an ethical personality.<sup>22</sup>

But when modern-orthodox thinkers and rabbis stress the non-formalistic character of *halakha*, they do so mainly to distinguish themselves from the ultra-orthodox camp, not so much from Christianity. The ultra-orthodox opposition to changes in *halakha* regarding, for example, the status of women, squares well with a formalistic view of *halakha*, according to which Jewish piety is no more, or not much more, than what Wurzburger names in the above citation “meticulous adherence to the various rules and norms of religious law.” According to the ultra-orthodox view, Jews are committed to strict adherence to *halakha* as it was handed down to them by tradition. Interpreting its rules in the light of general perceived goals of the Torah is a dangerous step toward revising, if not abandoning the rules that seem not to serve those goals any more. By contrast, since modern orthodoxy is committed to finding ways that could make *halakha* and modernity compatible, it must assume a non-formalistic view of *halakha*.<sup>23</sup>

Finally, the project of showing that *halakha* and modernity are compatible (or, if you wish, the project of *making* them so) assumes a central role for the rabbis in this project. A requirement to obey the rules of *halakha* just as they were delivered makes it hard to harmonize between *halakha* and modernity. Hence, it is no surprise to find modern orthodox writers emphasizing the role of human discretion in shaping *halakha*, relying on sources like *Achnai's Oven*<sup>24</sup> and on the idea that the Torah is “not in heaven.”<sup>25</sup>

Let me illustrate these points with a concrete example. The canonical sources of *halakha* are quite clearly against women studying Torah<sup>26</sup> and holding public roles.<sup>27</sup> A formalistic approach to *halakha*—derived either from the value assigned to blind obedience to it, or from a “sublimization” of divine law—would say that these rules must be obeyed in their traditional form; that it is not in the authority of any Jew to revise them. By contrast, a non-formalistic approach will rely on sources that express a more positive attitude to women and, in the light of these sources,

<sup>22</sup> Wurzburger, *Ethics of Responsibility*, 3.

<sup>23</sup> See also Norman Lamm, *Faith and Doubt* (New York: Ktav, 1971), 253–258.

<sup>24</sup> B. Talmud, tract. *Bava Metsia* 59b. In this famous Talmudic story, a bitter debate occurs between R. Eliezer and other sages regarding some halakhic question. After failing to convince them of his view and after failing to move them to his side by performing miracles, R. Eliezer asks Heaven to intervene, which indeed happens. A voice came out from Heaven announcing that R. Eliezer was right, to which the main protagonist responded by standing up and stating “The Torah is not in heaven” (citing the verse from Deut. 30:12), implying that even God Himself cannot intervene in halakhic rulings which are the prerogative of the rabbis. Once the Torah was handed over to the Israelites, it is they who are in charge of interpreting it according to their best reading of the Torah and their best understanding of God's will. For the centrality of this text in the modern-orthodox worldview, see my “Autonomy and Authority from *Achnai's Oven*,” *Bar-Ilan University L.R.* 24 (2008): 639–662 (Heb.).

<sup>25</sup> See previous note and also Eliezer Berkovits, *Not in Heaven: The Nature and Function of Halakha* (New York: Ktav Publishing House, 1983).

<sup>26</sup> See Mishnah tractate *Sotah* 3:4; Jerusalem Talmud tractate *Sotah* 3:4; and *Code of Maimonides*, Laws of Torah Study 1:13.

<sup>27</sup> *Code of Maimonides*, Laws of Kings 1:5.

will suggest a re-interpretation of those constraints on the study of Torah and on the fulfillment of public roles. For critics who would say that no rabbi has the authority to promote such a non-literal interpretation of halakhic rules, the modern-orthodox would reply by citing the assumed message from *Achnai's Oven*, namely, that the (interpretation of the) Torah is “not in heaven,” but in the hands of the rabbis.

In concluding this part of the paper, I should note that a moral reading of traditional Judaism accords well with the general character of modern orthodoxy. “The Torah,” says Rackman, “does not have to be afraid of challenges,”<sup>28</sup> and the challenge for contemporary Judaism, as he and his like see it, is to remain fully orthodox while at the same time a full partner in modernity; in science, politics, the arts, and so on. Since moral ideals, especially those concerned with equality, freedom and autonomy, are central to modernity, the above partnership cannot materialize without internalizing them into *halakha*. The emphasis on the moral nature of *imitatio dei*; the rejection of divine command morality; the non-formalistic perception of *halakha*; and the emphasis on the human component in shaping *halakha*—all these are supposed to work together in order to enable orthodoxy face the challenges of modernity.

## A more ambivalent picture

Against the picture presented in the previous section, modern orthodox thinkers make other claims too. Let me start with claims about the source of moral norms. In spite of explicitly denying that the good is good because God so desired it, Wurzbürger repeatedly says that “God is the source of all being and value.”<sup>29</sup> As opposed to paganism and pantheism, he says,

The God of monotheism completely transcends nature. He is the Creator, the source of what is and what ought to be. In the realm of the *is*, God's will generates the laws of nature, which all creatures necessarily “obey.” But in the realm of the *ought*, God is the Author of prescriptive rather than descriptive laws... [God] determines what is *worthy* of being valued.<sup>30</sup>

The idea that God is the author of the “prescriptive,” not only of the “descriptive,” assumes a divine command morality, according to which morality has no intrinsic value but is dependent on God's will. As Wurzbürger puts it elsewhere, “moral norms are grounded in divine imperatives.”<sup>31</sup> But this approach is quite different from the one explicated above. The central role of morality is replaced by the central role of divine commands.

One way of reconciling these two approaches to morality is to interpret the claims about the primacy of divine imperatives as applying to their educational or

<sup>28</sup> Rackman, *Modern Halakhah for Our Time*, 63.

<sup>29</sup> Wurzbürger, *Ethics of Responsibility*, 10.

<sup>30</sup> *Ibid.*, 11–12.

<sup>31</sup> *Ibid.*, 24.

motivational power. “Once the element of a divine legislator is eliminated,” says Wurzbürger, “reverence for the law is bound to be diminished.”<sup>32</sup> This direction is further developed by Berkovits, who argues that rational apprehension of moral principles is insufficient in itself to lead to action because, à la Hume, “reason as such may neither command nor has the power to induce action.”<sup>33</sup> Without divine backing, so to say, the moral law appears to human beings as subjective and relativistic and is incapable of serving as a motive towards moral behavior.

However, the idea that revelation is necessary for the attainment of moral knowledge, or to instill reverence for the moral law in the hearts of human beings, is different from the idea that God is the “author of what ought to be,” or that He “determines what is worthy to be valued.” In the terms used by Sagi & Statman mentioned earlier, there is a constant confusion here between two different meanings of the idea that morality depends on religion, strong dependence and weak dependence.<sup>34</sup> On the former, the very existence or validity of the moral law depends on God. On the latter, while moral norms are valid independently of God, it is only by virtue of God that they can be known and be acted upon. In some of their writings, both Wurzbürger and Berkovits seem to deny strong dependence, thereby conceding that even without God moral obligations would be binding. But then, in other texts, surprisingly, they argue that God is the author of all ‘ought’<sup>35</sup> or “the source of objectivity for all value and all law,”<sup>36</sup> assumingly because only God’s law can ground the required objectivity without which morality would deteriorate to subjectivism and relativism.

I cannot discuss here the question of whether the danger of this deterioration is a real one. For the purpose of the present paper, let me just say that the assumption of such a danger reflects yet another tension within the project of modern orthodoxy. This project stems from a basically positive attitude to modernity, not just as an idea, but as a social reality in which observant Jews can be full partners. But if secular ethics is necessarily weak, fragile, subjective, susceptible to manipulation and so on, the more reasonable response to it would be to create a wall of separation to protect believers from the destructive aspects of modern secularism. Thus, a tension exists between the positive approach to modernity, which is typical of the modern orthodox project, and claims about the anarchical potential of modernity.

A similar tension is expressed in various forms of skepticism about the objective nature of morality. Wurzbürger, for instance, says:

Recent developments in ethics have combined to undermine the claim that there is an objective foundation (be it reason or nature) for ethical beliefs. During most of the nineteenth century, most ethical debate revolved around differences among utilitarianism, Kantian rationalism, metaphysical ethics, cultural relativism, and historicism. The argument was over which of these competing

<sup>32</sup> Ibid.

<sup>33</sup> Berkovitz, *God, Man and History.*, 101.

<sup>34</sup> Sagi & Statman, *Religion and Morality*, Introduction.

<sup>35</sup> Wurzbürger, *ibid.*

<sup>36</sup> Berkovits, *God, Man and History*, 104.



ethical theories was correct. Today it is a matter of controversy whether any ethical belief or theory can be characterized as true or false.<sup>37</sup>

According to this paragraph, the attempts to offer a rational—hence an objective—ground for morality have failed, resulting in disagreement about “whether any ethical belief or theory can be characterized as true or false.” The remedy that Wurzbürger seems to be offering to this malady is (belief in) divine revelation.

But, again, this move does not accord too well with the explicit rejection of divine command morality. If the right or the good action “is commanded by God because it is right or good,”<sup>38</sup> as Wurzbürger explicitly concedes, then this intrinsic goodness or rightness should be able to resist skepticism about the objectivity of morality. I should add—more on this below—that flirting with skepticism is a dangerous game. The undermining of morality might lead to its complete rejection, rather than to the conclusion that it needs a new grounding and such rejection might motivate the thought that the only valid norms are religious ones. This conclusion is quite different from the picture that emerged in the first part of this paper.

The last source of tension in the attitude of modern orthodoxy to morality concerns the openness of *halakha* to moral interpretation. As explained above, modern orthodox thinkers tend to emphasize the open-ended nature of *halakha*, which *came* from heaven, but—so to say—does not reside there since “it is not in heaven.”<sup>39</sup> This feature of *halakha*, together with the belief in the centrality of ethics, creates the expectation that the rabbis will always interpret *halakha* in a way that would make it compatible with morality. Ultimately, this leads to the expectation that through a careful moral interpretation of halakhic sources, all apparent conflicts between *halakha* and morality would be solved in favor—so to say—of morality. Any seemingly immoral aspect would be explained away and all rules would be shown to fit the requirements of justice.

However, such a conclusion is not welcomed by modern orthodox writers, who announce that, in case of conflict between *halakha* and morality, one should opt for the former rather than bend it to please morality. “In the event of conflict with explicit halakhic requirements,” says Wurzbürger, “all ethical, aesthetic, intellectual, or prudential considerations must be set aside.” Furthermore, one’s position on this issue is often seen as a litmus test for whether one is orthodox or not. Those who do not endorse this position are typically assumed to belong to the Reform or the Conservative movements whose approach, in the eyes of Wurzbürger, is “the very antithesis” of his own.<sup>40</sup>

Yet, again, given the assumptions alluded to earlier about the non-formalistic understanding of *halakha* and the ethical nature of God and His law, this restriction on the moral interpretation of *halakha* is not easy to justify. Wurzbürger says that

<sup>37</sup> Wurzbürger, *Ethics of Responsibility*, 22.

<sup>38</sup> *Ibid.*, 7.

<sup>39</sup> See note 25 above.

<sup>40</sup> Wurzbürger, *Ethics of Responsibility*, 5. See also Kellner, *Contemporary Jewish Ethics*, 18.

In cases where ethical considerations are perceived to clash outright with explicit and unambiguous halakhic provisions, we are duty-bound to follow in Abraham's footsteps and subordinate the promptings of our human conscience to the superior authority of divinely revealed imperatives.<sup>41</sup>

On the face of it, who could dispute this claim and allow human beings to rebel against their Creator? However, while Abraham heard the voice of God directly, his descendants have access to God's will only via sacred texts which, *qua* texts, call for interpretation. "The law of God alone," says Berkovits, "is as eternal as His will."<sup>42</sup> But whatever the exact meaning of the expression "eternal" in this context, it did not prevent the rabbis throughout history from offering radical readings of morally problematic sources, leading to results that seem quite far from the simple meaning of the sources (their *peshat*).<sup>43</sup> In fact, it was Berkovits himself who pointed to such radical readings.<sup>44</sup>

Furthermore, it seems essential to modern orthodoxy to support creative interpretations of seemingly problematic sources, otherwise it would have to give up some of its basic aspirations, mainly those regarding the status of women. If "explicit and unambiguous" texts had been considered untouchable, orthodox women would have still been prevented from studying Torah, not to mention Talmud, and, in general, would have played a much more marginal role in Jewish life than they actually do. The fact that they do study Torah nowadays<sup>45</sup> and are increasingly involved in social and public life is a result of the readiness of modern orthodox rabbis to adopt a non-formalistic view of *halakha* and to let their concerns about equality and dignity shape a new reading of the halakhic sources regarding women.

The ambivalence of modern orthodoxy toward morality can already be seen in the writing of its most central figure, Rabbi Joseph B Soloveitchik. As is well-known, Soloveitchik had a positive attitude to modernity and encouraged his disciples to be part of the intellectual, academic, scientific and political life of the communities to which they belonged—in North America, in Israel, and in other countries.<sup>46</sup> He also cherished a central ideal of modernity, that of autonomy or self-creation:

<sup>41</sup> Wurzberger, 30.

<sup>42</sup> Berkovits, 103.

<sup>43</sup> See the classic essay by Leon Roth, "Moralization and Demoralization in Jewish Ethics," 11 (1962), 291 and Moshe Halbertal, *Values in Interpretation: The Status of the Individual Within the Family in Rabbinic Interpretation of the Bible* (Jerusalem: Magnes Press, 1997) (Heb.).

<sup>44</sup> See Eliezer Berkovits, "The Nature and Function of Jewish Law," in *Essential Essays in Judaism* (Jerusalem, The Shalem Center, 2002).

<sup>45</sup> See for instance Tamar El-Or, *Next Year I Will Know More: Identity and Literacy Among Young Orthodox Women in Israel* (Detroit: Wayne State University Press, 2002) and Chaim Waxman, *Social Change and Halakhic Evolution in American Orthodoxy* (London: Littman Library of Jewish Civilization, 2017).

<sup>46</sup> See Moshe Sokol, "Ger Ve-Toshav Anokhi: Modernity and Traditionalism in the Life and Thought of Rabbi Joseph B. Soloveitchik," *Tradition* 29 (1994), 32, who argues that "R. Soloveitchik was a paradigmatically modern figure for the Jews of his era and that his enduring contribution to human history derives *precisely* from that modernity." As Sokol mentions, not everybody shares this view regarding the relation between Soloveitchik and modernity.

“The peak of religious ethical perfection to which Judaism aspires is man as creator.”<sup>47</sup> But at the same time he was very critical of the way modern thinkers sought to ground morality, particularly of the assumption that morality can retain its binding force after being divorced from the authority of divine law. Soloveitchik refers to two main versions of secular morality: one that denies the existence of an objective moral law and emphasizes in its stead the ultimate freedom and responsibility of each individual to create him- or herself according to his or her subjective understanding, and one that grounds the moral law in Reason and that identifies autonomy with rationality.

The first approach can be found in romantic and in existentialist views and Soloveitchik regards it as a dangerous distortion of the ideal of self-creation:

The entire Romantic aspiration to escape from the domain of knowledge, the rebellion against the authority of objective, scientific cognition which has found its expression in the biologicistic philosophies of Bergson, Nietzsche, Spengler, Klages, and their followers and in the phenomenological, existential and antiscientific school of Heidegger and his coterie... have brought complete chaos and human depravity to the world. And let the events of the present era be proof! The individual who frees himself from the rational principle and who casts off the yoke of objective thought will in the end turn destructive and lay waste the entire created order.<sup>48</sup>

The other approach sounds more promising, namely, grounding the moral law in Reason, à la Kant. But Soloveitchik is skeptical about this enterprise as well:

[T]he moral law can never be legislated in ultimate terms by the human mind. Any attempt on the part of scientific research, no matter how progressive, to replace the moral law engraved by the Divine hand on the two stone tablets of Sinai with man-made rules of behavior is illegitimate. Adam tried to legislate the moral norm; he was driven from Paradise. In our day, modern man is engaged in a similar undertaking, which demonstrates pride and arrogance, and is doomed to failure.<sup>49</sup>

The thought that human beings can legislate the moral norms autonomously is thus a case of hubris. Furthermore, a man-made norm would fall short of motivating people to obey it:

[T]he worth and validity of the ethical norm, if it is born of the finite creative-social gesture of Adam the first, cannot be upheld. Only the sanctioning by a higher moral will is capable of lending to the norm fixity, permanence, and worth.<sup>50</sup>

<sup>47</sup> Rabbi Joseph B. Soloveitchik, *Halakhic Man*, trans. Lawrence Kaplan (Philadelphia: The Jewish Publication Society of America, 1983), 101.

<sup>48</sup> Soloveitchik, *Halakhic Man*, 141.

<sup>49</sup> Joseph B. Soloveitchik, "Catharsis," *Tradition* 17 (1978), 52.

<sup>50</sup> Joseph B. Soloveitchik, *The Lonely Man of Faith* (New Jersey: Jason Aronson, 1965), 96.

Soloveitchik's view on the human inability to legislate a binding moral norm coheres well with his objection to any attempt to base Judaism upon or reduce it to ethics.<sup>51</sup> The believers' commitment to God is supposed to be unconditional, and they must be ready to sacrifice for His sake what they value most—which is the lesson to be taken from the story of the *Akeda* (the sacrifice of Isaac):

Man, an intellectual being, ignores the logos and burdens himself with laws whose rational motif he cannot grasp. He withdraws from the rationalistic position. In a word, withdrawal is required in all areas of human experience and endeavor; whatever is most significant, whatever attracts man the most, must be given up.<sup>52</sup>

On the one hand, then, Soloveitchik was strongly committed to the value of morality and sought to protect it from views that in his opinion threatened to undermine it, like existentialism and Kantianism. On the other, he often comes very close to views that regard morality either as determined by divine law, or as subordinate to it, as in the philosophy of Yeshayahu Leibowitz.<sup>53</sup>

Leibowitz is probably the best known and most influential philosopher in Israel. Even those who don't adhere to his views often accept the way he conceptualized central questions in the philosophy of Judaism, in ethics, in political philosophy and so on.<sup>54</sup> For orthodox Jews in Israel, Leibowitz has always been *the* model for combining strict adherence to *halakha* with full involvement in modernity.<sup>55</sup> But, in the domain of ethics, the combination personified by Leibowitz is deeply ambivalent.

On the one hand, when one reads Leibowitz or watches his public addresses, one cannot miss his strong moral commitment. It is this commitment that shaped his opposition to the Occupation and his consistent warnings about its effects on Israeli society. In his famous criticism of the attack on the Palestinian village of Kibiyeh in 1953,<sup>56</sup> in which some 70 civilians were killed, he stated unequivocally that the action was not forbidden to us "as Jews," but rather that it was "forbidden *per se*."<sup>57</sup> For many, Leibowitz was "Israel's conscience."

Yet, on the other hand, Leibowitz argues that ethics "is an atheistic category *par excellence*."<sup>58</sup> What he means by this provocative statement is that to undertake the yoke of the commandments is to be wholly loyal to God and, consequently, to assign intrinsic value to nothing else, including morality. To be committed to the worship

<sup>51</sup> Soloveitchik, *Halakhic Man*, 150, n. 51.

<sup>52</sup> Joseph B. Soloveitchik, "Majesty and Humility," *Tradition* 17 (1978), 37.

<sup>53</sup> On Leibowitz, see Daniel Rynhold, "Yeshayahu Leibowitz", *The Stanford Encyclopedia of Philosophy* (Spring 2019 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/spr2019/entries/leibowitz-yeshayahu/>>.

<sup>54</sup> On Leibowitz's impact, see Asa Kasher, "Leibowitz's Influence," <http://www.leibowitz.co.il/about.asp?id=5> (Heb.).

<sup>55</sup> For the idea that Leibowitz expresses the zeitgeist of modern orthodoxy, see my "Negative Theology and the Meaning of the Commandments in Modern Orthodoxy," *Tradition* 39 (2005): 55–68.

<sup>56</sup> In October 1953, Israeli troops attacked the village of Kibiye in the West Bank in response to a Palestinian terror attack in which an Israeli woman and her two children were murdered in their home.

<sup>57</sup> Leibowitz, *Judaism, Human Values, and the Jewish State*, 189.

<sup>58</sup> *Ibid.*, 18.

of God is to give it lexical priority over any other demand, social, political or moral. Indeed, for Leibowitz, the main lesson from the *Akedah*—which is for him “the highest symbol of the Jewish faith”—is that all human values should be “annulled and overridden by fear and love of God.”<sup>59</sup>

In contrast to the other thinkers mentioned above, Leibowitz never argues that morality is central to Judaism or that Judaism has a unique moral vision. To the contrary, he insists that Judaism and morality are “antagonistic.”<sup>60</sup> But the strong moral voice in his writings on current affairs and in public debates in Israel discloses a powerful and inspiring commitment to morality.<sup>61</sup>

## Summary

In the first part of the paper, I tried to show that modern orthodoxy is characterized by an emphasis on the ethical aspects of Judaism, as well as on the non-formalistic nature of the halakhic process. In these respects, the modern orthodox camp is distinguished from the ultra-orthodox, which suspects that the elevated talk about ethics disguises a frail commitment to *halakha* and a dangerous flirt with reform and secular ideas.

The emphasis on the ethical aspects of the Torah leads to the rejection of divine command theories of morality, because such theories tend to weaken the status of morality and to make statements about the moral nature of God or of the Torah sound empty. But once the validity of moral requirements is regarded as independent of God, religion is at risk of becoming redundant in the moral realm, hence the attempt to find ways in which religion is nevertheless necessary for substantiating morality.

The emphasis on the non-formalistic nature of *halakha* and on the authority of the rabbis to interpret it according to what they regard as the fundamental values of the Torah brings modern orthodoxy close to Reform and Conservative Judaism. To avoid the slippery slope leading towards these rivals, modern orthodox thinkers insist that in conflicts between divine commandments and morality, the former take precedence. The model set out in the *Akeda*, they say, is supposed to guide the devout Jew in such circumstances. But this position does not easily cohere with the above emphasis on the ethical nature of the Torah. Such emphasis encourages attempts to explain away apparent conflicts between the precepts of the Torah and morality; and the autonomous nature of the halakhic process means that the rabbis of each generation have the power to do so, i.e. the power to produce interpretations that present the Torah in its best possible light.

<sup>59</sup> *Ibid.*, 14. For a similar argument, see James Rachels, “God and Human Attitudes,” in Paul Helm (ed.), *Divine Commands and Morality* (Oxford: Oxford University Press, 1981), 34–48.

<sup>60</sup> *Ibid.*, 207.

<sup>61</sup> See Yehuda Meltzer, “On the Curse,” in *The Yeshayahu Leibowitz Book* (Tel Aviv: Tel Aviv University Student Union, 1977), (Heb.) p. 137: “Leibowitz tells us that he is not, God forbid, a humanist. And we reply by saying to him: If you are not a humanist, who is?”

This tension within modern orthodoxy is hard to eliminate given the modern orthodox desire to carve a unique place for itself between ultra-orthodoxy, on the one hand, and non-orthodox interpretations of Judaism, on the other. It is also hard to get rid of it *philosophically* because of the dilemma raised by Plato many years ago which applies to any view about the relation between God's will and morality. If morality is independent of God, then God, or religion, seems to become redundant in the moral domain. If it is not, morality seems to be arbitrary, unstable, and lacking in value.

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