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# DIVINE COMMAND MORALITY AND JEWISH TRADITION

Avi Sagi and Daniel Statman

## ABSTRACT

Given the religious appeal of divine command theories of morality (DCM), and given that these theories are found in both Christianity and Islam, we could expect DCM to be represented in Judaism, too. In this essay, however, we show that hardly any echoes of support for this thesis can be found in Jewish texts. We analyze texts that appear to support DCM and show they do not. We then present a number of sources clearly opposed to DCM. Finally, we offer a theory to explain the absence of DCM in Judaism, claiming that the rational character of *Halakha*, as well as the moral and rational character of God, does not provide suitable ground for the growth of DCM theses.

## 1. Introduction: Divine Command Morality

A WIDESPREAD RELIGIOUS ATTITUDE ASSUMES that “without God, everything is allowed”—that morality depends on God. In our book *Religion and Morality* (1995), we describe two ways in which morality might be construed as dependent on religion and name them, respectively, strong and weak dependence. This distinction, although extremely important, often eludes attention. Advocates of *strong dependence* claim that morality cannot exist without religion, that God is both the source of morality and the exclusive basis of its validity. This means that had God commanded us to commit murder, for instance, murder would become a moral obligation. Similarly, if there were no God, then nothing at all would be morally wrong. This view of the relation between religion and morality constitutes one of the horns in the famous dilemma posed by Socrates in the *Euthyphro* (henceforth: “the Euthyphro dilemma”). The dialogue concerns the meaning of piety, and Euthyphro suggests the following definition: “What is dear to the gods is holy, and what is not dear to them is not holy”

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(*Euthyphro* 7a). Socrates then asks: "Is that which is holy loved by the gods because it is holy, or is it holy because it is loved by the gods?" (9–10). In modern discourse, this dilemma is usually formulated as follows: (a) Is an act right because (and only because) God commanded it? Or (b) did God command this act because it is right? Option (a) is an exact formulation of what we have called the strong dependence of morality on religion.

The standard term for theories of strong dependence is "Divine Command Theories" or "Divine Command Morality" (DCM). This term refers to a family of theories that includes extreme and moderate versions. In the more extreme versions, God's commands reflect His will; in the moderate versions, God's commands reflect His moral nature but are, nevertheless, the sole basis of moral obligations.<sup>1</sup> All these theories accept option (a) above: God's command is a necessary condition for the existence of a moral duty. Extreme versions seem to be more prominent in the Middle Ages. In Muslim theology, DCM is the dominant view of the Al-Ash'ari school (Frank 1983); in Christian thought, DCM is a tradition of long standing, beginning with William of Ockham, Duns Scotus, and others, continuing through the Reformation in the writings of Martin Luther and John Calvin, and influencing the philosophy of John Locke, George Berkeley, and others in the modern period. Proponents of this medieval thesis are also found among twentieth-century philosophers and theologians, including Emil Bruner and Karl Barth (Idziak 1979, 1989). Wittgenstein also endorsed this view of the relation between God and the moral good, preferring it to the "shallow and rationalistic" claim that God commands *x* because *x* is good (Wittgenstein 1965, 15). More moderate versions have been developed mainly by contemporary analytic philosophers such as Robert Adams (1987, 97–122, 128–43), Philip Quinn (1978, 1979) and Edward Wierenga (1983, 1984).

DCM has not been the dominant approach in the history of religious thought and has usually been rejected in favor of its opposite. Nevertheless, and mainly in its more extreme versions, DCM captures an important religious intuition. At its core, the strong dependence thesis emphasizes notions such as that of God's absolute sovereignty and freedom, or that of the human duty to surrender to God and obey Him unconditionally (Sagi and Statman 1995, introduction to part 1). If God is completely free, if He is the only sovereign, He cannot be subject to any external law purporting to limit His actions. By the

<sup>1</sup> We have opted for the male-gendered reference to God because it accurately reflects the accepted usage in Jewish religious thought. The arguments are not, however, affected by this decision, and the reader may prefer other images of God.

same token, when human beings stake a claim to the independent validity of moral law, they deny God's supremacy as the only King and the only worthy object of devotion.

DCM might be easily confused with the conflict thesis (Sagi and Statman 1995, ch. 6), according to which God's commands might conflict with the requirements of morality. Confusion occurs because both theses might be seen as expressing the same religious intuitions; however, this is not the case. In the conflict thesis, God's absolute sovereignty would be held to be manifest not in the fact that God determines what is moral (as in DCM), but in the fact that God determines what is to be done, even if immoral. Thus, these theses are obviously distinct and mutually exclusive; a conflict between morality and religion is possible only if morality is independent of God.

In contrast to DCM, the *weak dependence thesis* argues that, although the validity of morality is independent of God's command, morality still depends on God for its implementation. This thesis assumes that human beings, because of their flaws, can neither attain moral knowledge nor behave in moral ways unless assisted by God (Sagi and Statman 1995, chaps. 4–5). Thus, whereas according to DCM, morality itself depends on God, according to the weak dependence thesis, human beings depend on God for the understanding and the realization of morality. In other words, theories of strong dependence claim that no act can be listed as a moral obligation unless it is commanded by God. In weak dependence theories, an act can be considered a moral obligation even if not ordained by God—although, without religion, actualizing it may not be possible.

An approach similar to that of weak dependence is known from the literature on the reasons for the commandments (*ta'amei ha-mitsvot*). Commandments (*mitsvot*) are usually assumed to have a reason, although human beings often do not or cannot fully understand it. This assumption applies even to what Saadia Gaon called *mitsvot shim'iyot*, namely, commandments we cannot grasp through our reason.<sup>2</sup> These commandments, too, are assumed to have reasons, though of a sort that eludes human grasp (Saadia 1948, 3:3).

In this article, our focus is on the strong dependence thesis.<sup>3</sup> We examine whether, and to what extent, DCM theses feature in Jewish

<sup>2</sup> The term *shim'iyot* is derived from the Hebrew root *sham'a* (to hear). According to Saadia, then, we would not have reached many commandments had we not heard them during revelation.

<sup>3</sup> Since the classic sources of DCM in Islam and in Christianity rely on extreme versions of this thesis, we use these versions as our point of reference. Hence, our analysis does not apply to all versions of DCM, and particularly not to all its moderate versions.

tradition. As DCM is a prevalent religious tradition in Islam and in Christianity, and as it is also highly “appealing” in religious terms, we would naturally expect DCM theses to appear in Judaism, too. Surprisingly, however, strong dependence theses are seldom found in Jewish sources, while weak dependence theses (which, of course, are also found in Christianity and Islam) are quite prevalent. These two phenomena seem to be closely related. From a religious perspective, the rejection of DCM often leads to the adoption of some version of weak dependence because, otherwise, God would become totally redundant in the moral realm. The work of Saadia Gaon illustrates this well. On the one hand, Saadia claims that the rational commandments (*mitsvot sikhliyyot*) do not depend on revelation (see below); on the other hand, he claims that revelation plays a vital role in moral thought as, without it, human beings would fail to understand the details of the rational commandments, namely, their concrete significance (Saadia 1948, 3:3).

### 1.1 *Twersky’s argument*

The claim that DCM is seldom found in Jewish tradition challenges a view routinely stated in Jewish scholarship, claiming that in Judaism God is conceived as the source of morality. I. Twersky has recently formulated this view as follows: “Autonomous morality, according to Kant’s ethics, is a human creation; the independence of morality comes to the fore in the absence of an inextricable link between morality and the divine commands. This view has no parallel in Judaism. Judaism admits only a heteronomous-theonomic approach, which views the Creator as the source of morality” (Twersky 1991, 238 n. 237).<sup>4</sup> However, we believe that Twersky fails to distinguish adequately between the view that morality depends on God and the requirement to obey Him; as a result, a certain vagueness marks his discussion of these issues, as well as that of others on whom he relies (Fox 1972, 35–36). In arguing that God is the source of morality, Twersky relies on the importance of obedience to God in Jewish tradition. The requirement of total obedience “unequivocally rules out autonomy for law . . . the ground for obligation and authoritativeness is unquestionably the divine command—no Jewish thinker would dis-

<sup>4</sup> This passage was added to the Hebrew edition and does not appear in the English version. All subsequent references to Twersky will be to the English original (Twersky 1980). For many important bibliographical references, see Twersky 1980, 454–59, and notes; see also Jakobovitz 1976, 16.

pute this or introduce distinctions" (Twersky 1980, 456–57).<sup>5</sup> For Twersky, then, the duty of unconditional obedience, repeatedly stressed in Jewish tradition, requires the assumption that God is the only basis of all human obligations.

Yet although DCM implies an emphasis on total obedience to God, the opposite does not hold. An emphasis on unconditional obedience to God does not imply that divine commands have value only because they have been handed down by God, as suggested by DCM. We can assume that God has commanded certain acts because of their intrinsic moral value while assuming, at the same time, that human beings are bound to carry out these acts by a duty of unconditional obedience. Twersky may have been misled by the logic of a commonly offered argument:

1. Human beings ought to perform act x because God has commanded it.
2. God commands human beings to perform act x because this act is morally good.

Therefore,

3. Human beings ought to do x because x is morally good. Conclusion (3) makes God's command wholly redundant and, therefore, seems unacceptable from a religious point of view, forcing us to reject one of the two premises. Apparently, the only serious option is to reject (2), and if we do that, it appears that we must hold morality to be dependent on God's command. Put simply, if we insist on unconditional obedience to God, it seems we must give up the autonomy of morality.

This argument, however, is formally invalid, as it is based on the assumption that the term "because" entails a transitive relation—namely, if A because of B and B because of C, then A because of C. As many philosophers have shown, however, this assumption is false. An amusing example suggested by P. Faber should help clarify this point:

Suppose that Bill Q. Starr goes to the Hilton because it has a pineapple-shaped swimming pool. And it has a pineapple-shaped swimming pool because the architect idolized his mother, who was pineapple-shaped. Would one say, therefore, that Bill Q. Starr goes to the Hilton because the architect idolized his mother? [Faber 1985, 569; see also Brody 1981; Hanink and Mar 1987, 244].

<sup>5</sup> The original English text was slightly revised here, in line with the Hebrew translation, which reflects the author's intention more accurately.

In sum, the claim that human beings must obey God unconditionally and perform certain acts because God has ordained them does not contradict the claim that God commands these acts on the basis of their intrinsic moral value. Hence, the claim that the commandments have reasons does not contradict the claim that the human duty to obey these commandments is not contingent on these reasons but relies on the acknowledgment of God's absolute authority.

## 1.2 *The overlap of divine command and moral requirement*

We must still explain, however, how exactly the duty of obedience is compatible with the autonomy of morality. To do that, we use a version of weak dependence. Since human beings are limited in their moral understanding and in their ability to pursue a moral activity in light of this understanding, only unconditional obedience to God can ensure right moral behavior.

Twersky is certainly correct when he argues that God's command is a crucial factor in Judaism, but the question is: what is the precise role of this command? More specifically, do divine commands determine morality, or do they merely reveal what, independently of these commands, is morally correct? Advocates of the former option commit themselves to a DCM theory, whereas supporters of the latter reject DCM and adopt, at best, a thesis of weak dependence.

One cause for mistake might be the ambiguity of statements taking the form: "Act *x* is moral because God has commanded it." This statement can be interpreted in two ways. One argues that God determines morality and, therefore, if God commands *x*, this necessarily implies that *x* is moral. Another argues that, since God is morally and rationally perfect, His command is, necessarily, morally right. In other words, whereas the above statement might be perceived as implying strong dependence, it could just as easily be seen as compatible with a view of morality as independent. This analysis clarifies an important distinction: while both supporters and opponents of DCM admit to a perfect overlap between acts that are morally required and acts that are divinely commanded, they differ in their interpretation of this overlap. Supporters of DCM believe that the overlap is explained by the fact that God determines morality; opponents of DCM argue that it reflects the moral and rational perfection of God. The fundamental claim of DCM, then, is not merely that God's commands overlap moral obligations, but that this overlap is explained by the fact that God determines morality. More formally, DCM does not merely assume a logical equivalence between God's commands and moral ob-



ligations, but an asymmetrical relationship between them.<sup>6</sup>

Obviously, then, pointing to sources stressing a duty of obedience to God, or to sources claiming that God's commands are moral, is not enough to lend credence to the presence of DCM ideas in Jewish tradition. For the purpose of confirming this thesis, we would need to find sources arguing that God determines morality by His free and spontaneous will, as this claim is formulated in the writings of the Islamic school of Al-Ash'ari, as well as in those of William of Ockham, Martin Luther, and others.

In the second part of this article, we analyze Jewish sources which, *prima facie*, seem to support DCM. We seek to demonstrate that a careful reading of these texts fails to support this interpretation or, at least, makes it highly questionable. We then point to sources that explicitly endorse the autonomy of morality and the rejection of DCM. In the third and last part of the article we suggest a theory to explain the absence—or the marginality—of the strong dependence thesis in Judaism.

## 2. Divine Command Morality in Jewish Thought

Our main aim in this section is to consider whether any sources in Jewish thought advocate the thesis that morality depends in the strong sense on religion. A few methodological points are in order before we proceed to a detailed analysis of the texts.

1. We use the term "Jewish thought" broadly, to include not only systematic philosophical discussions but also other literary genres, such as commentaries and homilies.
2. The term "morality" (*mussar*) need not appear explicitly in the texts examined. For purposes of our inquiry, texts qualify if they deal with subjects we would include under the rubric of morality, such as virtues and justice.
3. We do not intend to argue that the sages were aware of the distinctions developed above, in particular that between weak and strong dependence. Our analysis of the sources is a conscious attempt at reconstruction which, we hope, does justice to them and presents them in the correct light.
4. In some cases, we do not conclusively reject a DCM interpretation of the sources in favor of a weak dependence one, and we do accept that alternative readings are sometimes possible. This very fact, however, shows the weakness of the case for DCM in Judaism,

<sup>6</sup> For a detailed analysis of the asymmetrical element in DCM, see Sagi and Statman 1995, ch. 1, sec. 1, and references.



especially when we compare these texts with those supporting DCM in Christianity and Islam. Furthermore, since the sources we cite below explicitly argue for the autonomy of morality, a heavier onus is placed on those opting for a DCM interpretation of texts open to more than one reading.

## 2.1 *R. Obadiah of Bertinoro (c. 1450—before 1516)*

The first *mishna* of treatise *Avot* reads: “Moses received [the Torah] from Sinai.” Bertinoro feels called to clarify why, although this treatise deals only with ethics, it begins by tracing the chain of Torah:

I say that, since this treatise is not a commentary on a biblical command, like the other treatises of the *Mishna*, but a series of ethical principles, and since the sages of the world have also written books where they invented rules to guide human beings in their behavior toward their fellows, the *tanna* began this treatise by saying “Moses received [the Torah] from Sinai,” to tell you that the ethical principles in this treatise were not a fabrication of the Mishnaic sages, but they too come from Sinai.

This passage would seem to suggest that no morality exists save for that ordained at Sinai through revelation—any other morality is a “fabrication” and, on this understanding, R. Obadiah Bertinoro is advocating DCM.<sup>7</sup> This interpretation, however, is far from necessary. The crucial question is how to interpret Bertinoro’s claim that ethical principles also “come from Sinai.” Does this mean that these principles were determined at Sinai by God’s will or that, at Sinai, God merely revealed them to human beings?

While the first option expresses a version of strong dependence, the second conveys, at best, a version of weak dependence, according to which revelation is necessary for the attainment of ethical truth. We contend that the second option is more plausible. Gentile morality is suggested to be a “fabrication,” not because Bertinoro believes morality depends on religion, but because the non-Jewish sages lack the divine guidance required to understand moral truth. Therefore, we do not see R. Obadiah Bertinoro as advocating a thesis of strong dependence.

<sup>7</sup> This seems to be the interpretation suggested by Jakobovitz 1976, 116 n. 5, although he does not rely on our terminology.

## 2.2 R. Zevi Hirsch Levin (1721–1800)

In his commentary on the same *mishna*, R. Zevi Hirsch Levin appears to advocate DCM and seems to interpret Bertinoro's views in light of a DCM thesis:

"Moses received [the Torah] from Sinai": as R. Obadiah of Bertinoro tells us, the *tanna* [referring to the sage of the *Mishna*] prefaced the treatise with this introduction to tell us that these principles of ethics rely on the Torah as it was commanded to us by Moses. Moreover, I say we have neither morality nor virtue unless a divine religion can be presumed to exist. I proved this in a debate about virtues and rational commandments [*mitsvot sikhliyyot*] that I conducted with a wise man who, after a prolonged discussion, agreed with me. Hence, he [the *tanna*] first had to lay the foundation for the divine religion bestowed on us by God through His prophet and loyal servant, as these are the grounds and the measure for all the virtues of a Jewish human being. Therefore, the Torah at times prescribes acts that defy reason and human nature, as it ordered us to blot out Amalek, destroy both man and beast and bear them a grudge from generation to generation, because the Lord is a God of knowledge and Israel are His people, at His command they encamped and at His command they journeyed. And I have spoken at length about this elsewhere, may it please God, because what is explicitly stated in the Torah will not be changed, and, even if it appears to challenge morality and reason, do not rebel against it [Levin 1966].

Levin explicitly claims that without religion we have neither morality nor virtue. His allusion to the command to blot out Amalek strengthens this understanding, insofar as Levin suggests that this command shows that morality is determined by the Torah rather than by independent rational considerations. This, indeed, is Levin's specific addition to Bertinoro's view: for Levin, the ethical principles not only "come from Sinai" as a matter of fact but, in principle, they could not come from any other source. Hence, the Torah is not only a sufficient condition of morality, but also a necessary one.

A more scrupulous reading, however, casts doubts on this interpretation of Levin's claims. The central question is: how should we interpret Levin's assertion that morality is predicated on the existence of a divine religion? Does he mean that morality itself depends on God's command (strong dependence)? Or does he mean that we are incapable of knowing morality without revelation (weak dependence)?

This question is particularly relevant when we turn to Levin's interpretation of the command to blot out Amalek. Is he claiming that because God commanded the destruction of Amalek's seed, and only because of this command, this act is justified? Or is he claiming that,

despite our moral objections to this command, we can trust God's goodness and be sure that the command is morally justified? This last option is consistent with Levin's quoting the verse "the Lord is a God of knowledge." This quote suggests that God's commands are not merely based on His will, but reflect His "knowledge." In this interpretation, the people of Israel "journey and encamp according to God" because they believe in His moral perfection.

Although Levin's claims are slightly ambiguous, we believe it is more productive to interpret them as upholding a thesis of weak dependence. Further support for our view can be drawn from the debate that Levin tells us he conducted with a wise man about "virtues and rational commandments." This wise man had probably formulated his claim in terms of a view prevalent in Levin's times: there are rational truths, including moral truths, that human beings apprehend through reason, without any need for revelation. To reject this view, Levin accepted the claim that moral truth is independent of God's command, but argued that human beings are incapable of grasping it without divine revelation. Levin could hardly have persuaded this wise man by relying on DCM, since DCM proponents have no common basis for discussing morality with those who believe in the rational validity of moral obligations. Our interpretation is also more helpful in clarifying the final lines of the passage: "even if it seems to contradict morality and reason, do not rebel against it." In other words, even when God's command appears to contradict reason, we are not to rebel against it since, in truth, this command is consistent with "the morality of reason." The contradiction is only apparent, even if human beings sometimes fail to understand this.

### 2.3 *R. Avraham Yeshayahu Karelitz (Ha-Hazon Ish) (1878–1953)*

R. Avraham Yeshayahu Karelitz, one of the most important *posekim*<sup>8</sup> in the last generation, writes: "Moral duties are at times synonymous with halakhic rulings, and *Halakha* determines moral right and wrong" (Karelitz 1952, 21). To prove this point, Karelitz chooses an example from Bava Bathra 21b. In a rule devised to protect their livelihood, artisans and tradespeople are allowed to prevent competitors from setting up shop in their vicinity, but this rule does not apply to teachers, who are not allowed to prevent other teachers from competing with them for students. Karelitz concludes:

<sup>8</sup> *Posekim* is a Hebrew term for scholars who concentrate on determining the *Halakha* in practice, in contrast with commentators or expounders who apply themselves to study for its own sake.

All their actions [of the established teachers against the new ones] would be guiltless, had *Halakha* ruled in their favor and allowed them to prevent the new ones [from working], and the new ones would [then] be guilty. . . . But now, that the ruling is that “the jealousy of scribes increaseth wisdom,” and this is considered a higher principle than the livelihood of private people, the guests [new teachers] have followed the *Halakha*, and those opposing them “spill innocent blood” . . . [21].

Karelitz suggests a similar argument regarding robbery: “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” (27).

The first quote seems to support strong dependence—“*Halakha* determines moral right and wrong.” This seems to be the thrust of the last passage, too, since it argues that *Halakha* defines robbery “even if contrary to human views.” However, a more careful reading again shows that this interpretation is not the only one possible. First, note the expression “at times” in the opening sentence. According to DCM, an act is morally wrong if, and only if, God has forbidden it, and no act can be considered a moral obligation unless prescribed by God. In contrast, according to Karelitz, *Halakha* determines right and wrong only “at times” (cf. Lichtenstein 1977, 5–20). Second, Karelitz’s own example shows this is not a case of strong dependence, since the decision to treat teachers differently from other professionals rests on a central value—the study of Torah. Improving education and teaching standards requires free competition—“the jealousy of scribes increaseth wisdom.” *Halakha* favors the value of Torah study over the value of protecting the livelihood of some teachers. The special ruling regarding teachers can thus be explained without resorting to DCM, as simply conveying the centrality of study and education within Judaism.

Hence, we claim that Karelitz is suggesting a version of weak dependence: human beings, in their limited understanding, may at times have difficulty discerning right from wrong, and *Halakha* shows them the correct moral path. For instance, many people would tend to relate to teachers as they would to other professionals, and *Halakha* corrects this distortion by pointing to the centrality of education and learning. After *Halakha* has established this principle, we can go back and see how logical this ruling indeed was. Admittedly, the last passage is closer to DCM than the former ones. Nevertheless, we suggest that, in light of the first passage, the latter, too, should be interpreted as expressing a weak dependence thesis; only God, in His

infinite wisdom, knows the exact definitions of robbery and injustice; these remain the definitions even if they conflict with human views.

#### 2.4 *R. Klonymus Shapira (The Rabbi of Piaseczno)*

R. Klonymus Shapira was a Hasidic leader active in Warsaw during the Holocaust. A collection of his sermons from this period was hidden in the ghetto and recovered after the war (see Piekarz 1990, ch. 12). In these writings, Shapira attempts to grapple with the terrors of the Holocaust and their theological significance, and his theodicy relies on the thesis that morality depends on religion. In a sermon dated on the eve of the Jewish New Year (October 1940), he writes:

The nations of the world, even the best of them, think that the truth is a thing in itself, and that God commanded truth because the truth is intrinsically true. They therefore accept the rational commandments, since they believe that God ordained them because they are true in themselves, such as that we should not steal, rob, and so forth. . . . Not so Israel, who say "You God are truth." He, may He be blessed, is truth, and we have no truth beside Him, and all the truth found in the world is there only because God wished it and commanded it, and since He, may He be blessed, is truth, this is also true. Stealing is forbidden because the God of truth has commanded it, and because the true God has commanded it, this is an act of truth. And when God commanded the opposite, that *hefker beit-din hefker* [the court has the power of expropriation] then this becomes true and a person's wealth can be confiscated. When God ordered Abraham to sacrifice his son Isaac, it was true to sacrifice him and, had God not said later "neither do anything to him," it would have been true to slaughter him [Shapira 1960, 68; see also 172].

In this source, the strong dependence thesis is explicitly stated and contrasted with the thesis that truth and justice are independent from God. According to Shapira, as moral norms derive their validity from God's commands, a change in God's commands leads to changes in moral norms. This is the only source we have found explicitly endorsing DCM. Adopting DCM allows Shapira to develop a new and daring model for the justification of God; once we adopt a thesis of dependence, no conflict can be presumed between justice and the divine commands, as truth and justice are determined by God. Shapira indeed says so explicitly: "We do not merely say: we have, Heaven forbid, a question, but the answer is not clear and is beyond our grasp. Instead, we say we have no truth and justice at all, except for what God wishes, commands, and does" (Shapira 1960, 68–69). Shapira's interpretation of the sacrifice of Isaac is also worth noting in this context. Contrary to the well-known views of Søren Kierkegaard (1983)

and Yeshayahu Leibowitz (1993, ch. 1), who believe that the sacrifice epitomizes the conflict between religion and morality, Shapira argues that no such conflict exists because God's command determines morality.

A similar trend in modern philosophy is represented by Patterson Brown. Brown also believes that DCM is the solution to the theodicy problem and, relying on this thesis, he, too, argues that the command to sacrifice Isaac was morally valid (Brown 1967). Brown admits that God is a good God, but only in the sense that He is the criterion for the good. Similarly, when Shapira claims that "since He, may He be blessed, is truth, this is also true," he apparently does not mean truth as independent from God, since he repeatedly mentions that truth and justice flow from God; rather, he means that God is truth in the sense that He determines it. Brown's approach is part of a long-established Christian tradition; as Ronald Bainton (1930) shows, DCM was one way of contending with the ostensibly immoral behavior of the patriarchs. Judaism, however, generally seeks specific justifications for the sacrifice of Isaac (Green 1988, ch. 4; Sagi and Statman 1995, ch. 8). Shapira's views, then, are quite exceptional. In turning to DCM, he expresses his feeling that the traditional theodicies proved incapable of coping with the harrowing reality around him. Shapira is forced to search for a more radical approach, rejecting the independent existence of truth and justice, thus dismissing the question of theodicy.

Despite his explicit endorsement of DCM in his sermon, Shapira elsewhere relies on more traditional conceptions of theodicy, conceptions which are incompatible with DCM. Thus, for instance, he claims that the purpose of suffering is to cleanse humanity from its sins so as to bring it closer to God (9), or he claims that suffering is a purifying experience that heralds the coming of the Messiah, implying these are the messianic pangs preceding Israel's redemption (106–7). Elsewhere, Shapira argues that we are tested through suffering, "that man is being tested from Heaven, to see whether his faith is strengthened" (100). All these arguments share the assumption that God is guided by moral considerations, and His acts have a purpose. In other words, God does not determine morality solely by His will, but follows moral standards in His actions. Had Shapira consistently adhered to a thesis of strong dependence, there would have been no room for this traditional theodicy. As indicated, Shapira acknowledges that theses of strong dependence preclude questions of theodicy. Elsewhere in the book he suggests a similar argument, but on totally different grounds: as we cannot understand God's actions because our knowledge is limited, we have no right to doubt His justice and His goodness:



Why, indeed, the queries, Heaven forbid, and the misgivings. . . . How could we wish to understand these acts of God and, Heaven forbid, be hurt when we do not? If we do not understand a blade of grass created by God, then we shall certainly be unable to grasp a soul and, all the more so, an angel and, all the more so, His knowledge, may He be blessed. How, then, could we wish to understand what He, may He be blessed, knows and understands [139]?

Following our inquiry into the question of whether any Jewish sources advocate DCM, we conclude that DCM formulations are almost non-existent in these texts. Careful analysis casts heavy doubts on all interpretations purporting to read certain texts as supporting DCM theses, and we have attempted to show that, at best, these sources represent different versions of weak dependence. The only explicit formulation of DCM appears in the work of what is certainly a marginal figure, R. Klonymus Shapira, and, even in his case, his approach to DCM is rather complex. The absence of DCM is even more conspicuous in light of the prominent role granted to the alternative thesis that stresses the autonomy of morality. A detailed analysis of the autonomy thesis is beyond the scope of this essay, and we confine ourselves to a brief review.

### 3. Anti-DCM Approaches

Saadia was the first Jewish thinker to express strong opposition to DCM. We do not dwell on his well-known view of rational commandments as independent from revelation; instead, we have chosen a seldom quoted passage that is highly relevant in the present context:

If however, he [the prophet] were to say to us: "My Lord commands you to commit adultery and steal" . . . we would not ask him for any sign since what he called upon us to do is not sanctioned by either reason or tradition. Now I have seen one of the proponents of the theory that has just been discussed go further in the matter and say, "But suppose we note that the [pretended] prophet pays no attention to us but makes us witness the miracles and marvels so that we see them perforce. What shall we say to him in that case?" My answer was that our reply to him should be the same as that of all of us would be to anyone who would show us miracles and marvels for the purpose of making us give up such rational convictions as that the truth is good and lying reprehensible and the like. He was therefore compelled to take refuge in the theory that the disapproval of lying and the approval of truth were not prompted by reason but were the result of commandments and prohibitions of Scripture, and the same was true for the rejection of murder, adultery and stealing. When he had come to that, however, I felt that I needed no longer concern myself with him and that I had my fill of discussion with him [1948, 3:8].



According to Saadia, entering a discussion with anyone who has stooped so low as to think that moral proscriptions are merely “the result of commandments and prohibitions” is pointless. Such a position is so outrageous that it does not merit any serious consideration.

R. Judah Halevi, whose general theory of the commandments drastically differs from that of Saadia, totally agrees with the latter regarding the autonomy of morality. In his view, moral norms precede religious commandments “in character and time,” as they are absolutely essential to the existence of any human society—to the point where “even a gang of robbers could not but accept the rule of justice among themselves” (Halevi 1964, 2:48). Obviously, Judah Halevi would reject the idea of DCM.

In his *Eight Chapters*, Maimonides advocates a similar stand. Although he disagrees with Saadia’s terming the moral commandments “rational,” Maimonides admits that acts forbidden by moral prohibitions would be wicked even if not proscribed by the Torah, unlike other commandments which, “were it not for the Torah, would not be wicked at all” (1966, ch. 6). On these grounds, Maimonides draws a distinction between the pious person and one who curbs his or her evil inclination. Regarding the moral commandments, which proscribe acts that even without the Torah would be seen as evil, the ideal human being is the person who observes these commandments naturally and without any struggle. However, regarding the traditional commandments, the desirable figure is the one able to curb his evil inclination (1966, ch. 6). Divine commandments, then, are only necessary in the ritual sphere, whereas in the moral realm Maimonides adopts a thesis of autonomy.

This view, mentioned in passing in *Eight Chapters*, is developed at length in the *Guide*, in the claim that moral commandments are part of the amendment of the body, which is a necessary condition for human natural perfection. The commandments of the Torah have a rational basis and are not merely a product of God’s will (Maimonides 1974, 3:27). Even Twersky who, as mentioned, does not accept moral autonomy in Judaism, was forced to admit that *Eight Chapters* offers a more autonomous view of morality.<sup>9</sup> Maimonides’s objection to

<sup>9</sup> In Twersky’s opinion, this view is incompatible with Maimonides’s general approach in the *Code of Maimonides* (1951) and particularly in the Laws of Kings 8:11 (Twersky 1980, 453–54). This law states that a gentile who observes the Noahide laws of his own free will rather than because God has commanded them “is not deemed one of the pious of the gentiles, but one of their wise men.” We will not enter here into a detailed analysis of Maimonides’s Laws of Kings, which have been the object of a great deal of scholarly attention (Twersky 1980, 455 n. 239), but we do not see a contradiction between this law and Maimonides’s argument in *Eight Chapters*. As noted, the duty to

calling the moral commandments “rational” (*sikliyyot*) does not imply that he believes them to be a result of God’s arbitrary will. Although Maimonides is opposed to a particular kind of rationality regarding moral duties, he does not rule out the rational basis of moral obligations altogether. Quite the contrary. Moral obligations, as noted, are a condition of human perfection, and the fact that they are defined as “truisms” (*mefursamot*) does not imply that they depend on God’s command for their validity, as would appear from DCM.<sup>10</sup>

This view regarding the autonomy of morality is quite widespread in modern Jewish thought—for example, in the work of Moses Mendelsohn and Hermann Cohen. It is interesting, however, to find a similar position being endorsed by thinkers deeply anchored in the halakhic world. Following is a text by R. Moses Samuel Glasner (Hungary, the nineteenth century):

Know that human beings find many acts revolting, even if not forbidden by the Torah, and anyone engaging in these acts would be more loathsome than one who transgresses an explicit prohibition of the Torah. As for all things that enlightened people find loathsome, even if not explicitly forbidden by the Torah: one who engages in them is worse than one transgressing the laws of the Torah . . . and can no longer be seen as created in His image [Glasner 1921, preface].<sup>11</sup>

In sum, not only does DCM enjoy no significant support in Judaism, but the prevalent view in the world of the sages is that morality is autonomous. Even though the sages disagree on many important issues and notwithstanding their different cultural surroundings, they share a belief in the independent validity of morality. In closing this section, we quote a highly relevant text written by a modern halakhist, R. Jacob Harlap (1883–1951). Harlap recasts the Euthyphro dilemma in specifically Jewish terms:

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obey (stressed in the Laws of Kings) and the assumption that morality enjoys an independent status (stated in *Eight Chapters*) are not mutually contradictory. One who freely decides to observe moral commandments does not deserve the title “one of the pious of the gentiles” but certainly belongs in the category of “wise men,” as he is acting rationally. For a discussion of the problem concerning the correct version of this source and its philosophical implications, see Levinger 1990, ch. 1.

<sup>10</sup> These issues require further discussion, including a careful reading of the *Guide* (1:1–2). We believe that the distinctions suggested in the introduction to this article offer a new and fruitful approach to Maimonides.

<sup>11</sup> For further sources reflecting support for moral autonomy among Jewish sages, see R. Nissim Gaon, preface to *Sefer Ha-Mafteah*; Nahmanides 1971–76, Gen 6:13; Hazkuni, *Commentary on the Torah*, Gen 8:21; Albo 1930, 3:7; Anatoli 1866, 72; Angil 1903, Part 1, 196–97; Hazzan, 1832, 42.

With respect to the verse "Its ways are ways of pleasantness and all its paths are peace" (Prov 3:17). Are the ways [of the Torah] pleasant, peaceful and true of their own nature, though we did not know that and God, may He be blessed, revealed them to us; or, are their pleasantness and sweetness contingent to our being commanded, and through the command . . . they are pleasant and peaceful ways?<sup>12</sup>

Harlap adopts the first option and adds to it a thesis of weak dependence:

They [the ways of the Torah] are pleasant and sweet by their very nature, but we did not know them, and God, may He be blessed, in His great mercy and grace, revealed them to us. Hence, not surprisingly, the patriarchs abided by the Torah before it was given, since the Torah's ways and laws are intrinsically very pleasant and sweet. Only we could not recognize the ways of the Torah [without revelation]. The patriarchs . . . did [Hirschensohn 1923, 159].<sup>13</sup>

The absence of a DCM thesis in Judaism is surprising, considering its high religious appeal and its existence in both Christianity and Islam. The explanation of this phenomenon is to be sought in an element germane to Judaism that seems to be incompatible with DCM and plays a decisive role in shaping the consciousness of Jewish sages: *Halakha*. The next section deals with this issue.

#### 4. *Halakha* and the Strong Dependence Thesis

Developing a comprehensive and systematic theory of *Halakha* is beyond the scope of this paper. We confine ourselves, then, to several aspects that seem particularly relevant to the present subject. Our argument rests on the claim that halakhic decisions reflect human discretion and understanding. Halakhic rulings do not merely apply the written law but entail a large measure of human discretion, a statement true for both halakhic interpretation and halakhic legislation. We argue that this phenomenon is best explained by the idea that the sages are assumed to possess the ability to reveal right and wrong without appealing to a direct divine command. This idea runs counter to the basic intuitions of DCM, according to which right and wrong are wholly dependent on God's commands. Furthermore, the context created by the rationalist character of halakhic discourse is antagonistic to the discourse typical of DCM.

<sup>12</sup> Harlap sent the question and his response to R. Hirschensohn, and both appear in Hirschensohn's book *Malki Ba-Kodesh* (1923, 159).

<sup>13</sup> Hirschensohn accepted Harlap's position and added that the Torah would never command anything against reason.

We could thus expect that some halakhic sources will explicitly object to DCM, and we consider some of the most relevant ones below. The *sevara*, an halakhic notion depicting norms and principles based on reason, makes an excellent case for the central role of human discretion in the shaping of halakhic decisions (Sagi 1991a, 1991b). Norms based on a *sevara* are not derived from textual material but rest on rational understanding. The sages infer both specific rulings and general moral principles from a *sevara*. Sanhedrin 74a is an instance of a specific ruling inferred from a *sevara*: the decision to define homicide as an offense to be avoided even at one's peril rests on an autonomous reason: "Who is to say that your blood is redder than his blood?" An instance of a general principle based on a *sevara* is the legal rule: "the onus of proof is on the claimant," which is derived from the *sevara*: "Is it not common sense that if a man has a pain he visits the healer?" (Bava Kamma 46b).

These examples clarify that a *sevara* is a product of independent judgment rather than an inference from a text or a tradition. In the words of R. Zevi Heyyyot, "All these principles are embedded in human rationality, and are neither inferred from the Torah nor from oral traditions" (1958, 1:313). Even though halakhic rulings based on human understanding are not inferred from the Torah, "nevertheless . . . matters inferred through a *sevara* are of equal standing to the Torah itself" (1958, 1:313).

Furthermore, not only are the sages willing to accept claims resting on *sevara*, they actually view norms based on a *sevara* as preferable to those argued through textual arguments. The Talmud often claims, "Why do I need a text? It is a matter of *sevara*!" (see Ketuboth 28a; Bava Kamma 46b). Whenever possible, norms should be inferred through human understanding rather than pinned on biblical verses or other texts. Human discretion is decisive in the shaping of halakha, even when *sevara* is not specifically mentioned as a technical term. Many discussions in talmudic literature are conducted on purely rational grounds, without any recourse to textual material, and the legitimation granted to this type of halakhic activity is extended to the *sevara*. Even norms based on biblical verses are not generally perceived as edicts but as logical and just laws to be enforced by logical and just means.

This idea is well formulated by R. Abraham ben Moses ben Maimon, in a responsum regarding the law of *bar-matsra*. According to Jewish law, whoever sells a piece of land has a special obligation to sell it to the person whose land borders on the seller's. Furthermore, if the land has been sold to someone else, the neighbor (or *bar-matsra*) is entitled to force the buyer out of the land. This law is based on the

verse “thou shalt do which is right and good” (Deut. 6:18). The ruling on *bar-matsra* does not apply to wives and orphans and, on this exception, R. Abraham writes as follows:

Do you believe that their [the sages'] decision not to apply the ruling on *bar-matsra* to wives and orphans was arbitrary or unjustified? Not so, for everything that is said in the *Halakha* has clear reasons, obvious to anyone endowed with wisdom and understanding. The ruling on *bar-matsra* is canceled in their regard because the main purpose of this ruling is to comply with the injunction “And thou shalt do which is right and good in the sight of the Lord.” This is a just and fair principle in all rulings . . . and the justice involved in finding property for small orphans to ensure them a source of livelihood from its fruits is greater than the justice attained by enforcing the ruling on *bar-matsra* [Responsa of R. Abraham ben Moses ben Maimon, 97].

A responsum by R. David ben Abi Zimra, known as *Ha-Radbaz*, merits consideration because of the central role he grants to human reason in the process of halakhic decision-making. He was consulted on the following case: “If the authorities tell a Jew: ‘Allow us to cut off one of your limbs without causing your death, or else we shall kill another Jew’—is one bound to allow this injury to oneself?” *Ha-Radbaz* quotes a formal argument that shows one is indeed bound, and then proceeds to reject it. Following the formal halakhic discussion, he writes: “Moreover, it is written, ‘her ways are ways of pleasantness,’ and the rules of our Torah must be acceptable to reason and logic. How could we possibly imagine that anyone would allow his eye to be blinded, or his arm and leg to be cut off, so as to prevent someone else’s killing?” (Responsa of R. David ben Abi Zimra, 1052).

Interpretations of the Torah must be consistent with human reason. In this text, “reason and logic” are synonymous with moral understanding which, as *Ha-Radbaz* sees it, would rebel against the notion of forcing a human being to sacrifice a limb in order to save someone else’s life. The claim of David b. Avi Zimra then suits option (b) in the Euthyphro dilemma, which proclaims the autonomy of morality—“the rules of our Torah” must accord with “reason and logic.”

Autonomous moral considerations are particularly prominent in instances of apparent contradiction between the written law and moral thinking. The matter of the stubborn and rebellious son illustrates this well: the disproportion between the crime and the punishment creates a grave moral injustice. R. Simeon formulates the moral difficulty entailed by this disproportion as follows: “Because one eats a *tartemar* [weight measure] of meat and drinks half a *log* [liquid measure] of Italian wine, shall his father and mother have him stoned?”

(Sanhedrin 71a). The sages suggested several interpretations of this passage, designed to “soften” this ruling and present it as consistent with justice. Some claimed that the stubborn and rebellious son is “judged by his end,” as he is bound to end by going forth to the cross-roads and robbing others. Another interpretation, even more far-fetched, claims that the whole matter is merely hypothetical: “But it never happened and never will happen. Why then was this law written?—That you may study it and receive reward” (Sanhedrin 71a).<sup>14</sup>

This radical interpretation of the Torah, which rests mainly on moral arguments, is obviously hard to reconcile with DCM. In DCM terms, if God commands the stoning of the stubborn and rebellious son, then this act is morally correct and attempts to mitigate it have no place. The explanations adduced by the sages reflect their perception of a conflict between justice and the Torah, which they attempt to resolve by resorting to exegesis.

As mentioned in the introduction, the very recognition that a conflict between morality and God’s commands is possible presupposes a denial of DCM. The rabbinical exegeses of the passage on the stubborn and rebellious son reflect a phenomenon widespread in Jewish tradition, a phenomenon that L. Roth (1974, ch. 7) calls moralization, namely, a tendency to tone down instances of apparent immorality in the sources by interpreting them in ways that seem morally more acceptable. Roth illustrates this with several examples, and many more could be added. This phenomenon is an expression of the power and independence granted to moral considerations in the shaping of *Halakha*.

The picture we have drawn could be seen as one-sided or as oblivious to another trend present in *Halakha*. Parallel to the stress on the wide autonomy enjoyed by the *posek* in his judgments, a conservative trend aims to restrict this latitude or abolish it completely. Let us turn once more to the issue of the stubborn and rebellious son. Against those sages who viewed the whole discussion on the stubborn and rebellious son as purely an academic exercise, R. Jonathan claims, “I saw him and sat on his grave” (Sanhedrin 71a). As Urbach (1984, 87) remarks, R. Jonathan is not reporting a historical fact, but is attempting to convey, in literary terms, his opposition to the radical exegesis adopted by the sages. This conservative approach found interesting expression in the following statement: “Regarding the case of an *agunah* [a deserted wife], one should not rule leniently on the basis of a *sevara* that is not mentioned either in the Talmud or by the

<sup>14</sup> For an extensive discussion of this passage and the moral considerations involved in its interpretation, see Halbertal 1989, ch. 2.



*posekim*; a *posek* whose *sevara* is not explicit is not to be relied upon.”<sup>15</sup> Whereas the former trend had stressed the central role of human discretion, the latter relates to halakhic tradition as a *devar Mishnah*, namely, a law that cannot be disputed. This view is voiced by an anonymous sage: “The *Baal Maor* [R. Zarhiyya Halevi] may his memory be blessed, writes: I have heard from a great sage that, in our times, there can be no mistakes of discretion, since we have at hand all the halakhic rulings, either in the Talmud or in the *geonim* after the Talmud . . . hence whoever errs, errs on a *devar Mishnah*” (R. Asher b. Jehiel [*Rosh*] Sanhedrin 4:6).

We should be cautious, however, about assuming that this conservative trend presupposes DCM. Advocates of the conservative trend do not claim that human discretion should be restricted because God is the only legitimate source for determining right and wrong, as is assumed by DCM. Instead, the conservative view relies on arguments characteristic of *Halakha* as a legal system, including, for instance, the need to preserve constancy and uniformity: “For every individual will claim that he is right and that the law shall be as he decides. This would destroy the Torah entirely” (Albo 1930, 3:23). Thus, the conservative trend does not rule out human discretion in favor of the idea of a divine law that determines good and evil, but merely favors certain human values over others. Hence, we cannot infer from the fact that some sages seek to abstain from certain modes of moralization that they assume morality depends on religion. In many cases, the sages’ abstention from moral interpretations which undermine the literal meaning (*peshat*) of Scripture rests on the belief that they lack the authority to make such a move. They have faith in God’s moral character and trust that His commands reflect His goodness, even when they do not understand exactly how.

Our analysis has emphasized two aspects of halakhic activity that seem hard to reconcile with DCM: its rationality and the central role it grants to moral considerations. We have argued that, although these two elements play an important role in the shaping of halakhic norms, they themselves are not derived from halakhic law. The halakhic sage, even when bound by the general rules of the system, is highly

<sup>15</sup> *Encyclopedia Pahad Itshak*, under *savrei*. A similar claim appears in the following passage: “And what you wrote about the sages, whether they now have the power to make more lenient rulings regarding matters forbidden in various writings, it is obvious they do not. How could anyone dare to dispute writings accepted by the whole of Israel, unless he knew from his great teachers that they themselves had not followed [these writings], as we know was the case in several places. But on his own *sevara*, never” (Isserlein 1882, 241).



autonomous in the exercise of his discretion. Moreover, the moral considerations he applies in any given situation are not mere amplifications of the written law and, at times, may even become the basis for a new and radical interpretation of the law. Given this description of two of its basic components, halakhic activity is clearly hard to reconcile with DCM, which assumes that moral law is determined by God's will, thereby making rational considerations irrelevant. A powerful expression of the independent role of moral discretion appears in the writings of R. Simeon Skop, a leading Eastern European halakhist before the Second World War:

Legal rulings on civil matters are unlike other commandments of the Torah. All the commandments are what the Torah has warned us to do and not to do, and our duty to follow them is [based] on the principle of observing God's commandments, but this is not so in civil matters. Before a divine command to pay or to return something can be enforced, it must be preceded by a legal obligation. . . . Another fundamental principle is that, whenever we discuss a person's ownership of a specific object, we are not considering the observance of a commandment but a factual matter—who does this object belong to, and who is legally entitled to seize it. Therefore, when the rabbis ruled on civil matters, their rulings were obviously based on rational decisions, as would appear from legal theory [Skop 1980, 5:1; see Sagi 1995].

The independence of moral considerations from halakhic law could not have been formulated in stronger terms. We thus contend that *Halakha* is not a fertile ground for the growth of DCM theories. Even barring a logical contradiction between DCM and *Halakha*, halakhic activity shapes a type of consciousness that tends to oppose the approach emerging from DCM. Halakhic activity accustoms *posekim* to exercise their autonomous judgment and to rely on their own understanding, including moral understanding, when dealing with the problems before them. *Posekim* who have embraced the view that favors a *sevara* over a text, and reason over old age (Bava Batra 142b), will probably consider DCM an alien growth that cannot prosper on Jewish soil. The following statement by R. Judah Loew [*Ha-Maharal*] illustrates this type of consciousness well:

Although it is to be feared that [the judge] will not follow the path of truth and will not rule in good faith so that his ruling is true, the judge can still only rely on what his reason leads him to understand from the Talmud. Even if his insight and wisdom mislead him, he is still beloved by the Lord, may He be blessed, when he rules as demanded by his reason. The judge has nothing but what his eyes see, and he is better than one who,

when ruling, follows a text without understanding its reasons, who walks like the blind [Loew 1971, 1:69].

## 5. DCM and the Image of God

In *Religion and Morality* we showed that a comprehensive analysis of DCM reveals a series of elements bearing, on the one hand, on a certain conception of God and, on the other hand, on a certain conception of human beings. Hence, one can expect that the absence of DCM from Jewish tradition will come to the fore in the rejection of some of DCM's constitutive elements. Given the scope of this paper, we confine ourselves to an analysis of some preliminary guidelines concerning one element only, the image of God. Our contention is that the image of God emerging from halakhic sources is hard to reconcile with the one suggested by DCM. While DCM theories tend to picture God as voluntaristic, commanding particular acts not because they are intrinsically valuable but merely because He wishes them, the image of God found in halakhic sources is that of a rational God acting upon reasons. Since *Halakha* was traditionally understood as a human extension of a divinely revealed law, it reflects, not surprisingly, the rational and moral character of God.

The rational character of God emerges in Maimonides's *Commentary to the Mishna* (1968, Kelim 12:7), where he strongly condemns instances of deceit and theft from gentiles: "That He has attested, may He be blessed, that He abhors them *as such*, whatever their object, as we are told 'For all that do such things, and all that do unrighteously, are an abomination to the Lord thy God' (Dt 25:16)" (our emphasis). Not merely because of His will does God forbid us to deceive gentiles, but because these acts, as such, are disgraceful. This is consistent with the second option in Euthyphro's dilemma: God abhors some acts and forbids them because of their intrinsic negative value. In his halakhic writings, Maimonides repeatedly relies on God's moral character as the basis of several norms. Consider, for instance, the following ruling:

It is permitted to work a heathen slave with rigor. Though such is the rule, it is the quality of piety and the way of wisdom that a man be merciful and pursue justice and not make his yoke heavy upon the slave. . . . Cruelty and effrontery are not frequent except with heathen who worship idols. The children of our father Abraham, however, i.e. the Israelites, upon whom the Holy One, blessed be He, bestowed the favor of the Law and laid upon them statutes and judgments, are merciful people who have mercy upon all. Thus also it is declared by the attributes of the Holy One, blessed be He, which we are enjoined to imitate: "And His

mercies are over all His works" [Maimonides 1951, Laws Concerning Slaves 9:8].

Maimonides combines the notion of the Torah's laws as fair and just with that of God's moral virtues. This combination is obvious: if God's laws are intrinsically good and just, then the God commanding them is obviously a good and just God. Maimonides emphasizes that human beings are required to imitate God's virtues, rather than merely comply with the formalities of halakhic law, which would have allowed them to "work a heathen slave with rigor." Through *imitatio Dei*, human beings conform with the spirit of the Law and with the intentions of God, who gave us the Torah.

Moses Hagiz demonstrates the combined use of the principle of God's goodness and the moral value of the Torah's commands (Hagiz 1886, 12). The context is once again the attitude to gentiles, and Hagiz rages against those guilty of immoral practices against them: "[They] must be from Amalek's seed, who always persecuted Israel and knew not the ways of the Lord, because the Lord is righteous in all His ways, and He and His holy Torah guide the children of Israel in the right path, and gave us just laws and ordinances."

A responsum by R. Solomon Hirsh Schick (*Ha-Rashban*) is an interesting example of the halakhic use of God's moral image. He was asked whether to allow the conversion of a gentile woman who had married a Jewish man in a civil court and borne his children, since the Talmud (Yevamot 24b) disapproves of conversions motivated by a desire to marry a Jew rather than by a desire for Heaven. R. Schick ponders the merits of the various arguments: "If the prophet Hosea did not want to expel his harlot wife and his children by her and the Holy One, blessed be He, agreed to his wishes, as the rabbis have told us . . . how can we ask a shoemaker from Althofen [a place near Budapest] to do penitence by expelling his sons and their mother? Do we not pray 'Pity us as a father pities his children?'" (Schick 1912, 37).

One last instance of the role of God's image in the shaping of an halakhic ruling is found in the work of R. Meir Abulafia, (*Ha-Ramah*), who deals with the following question: does the ruling on the apostate city apply to women and children? R. Meir quotes evidence from different sources to prove that this ruling does not apply to them and says: "far be it from God to commit evil" (in Lifshitz 1968, 1:186), that is, since He is perceived as a God of justice, we cannot interpret His commands in ways that would suggest He is an evil God.

All these examples rely on explicit theological-moral considerations. We believe that even when these considerations are merely latent, they fulfill a central role in shaping the rabbis' halakhic conscious-

ness. Considerations relying on mercy and justice are at times raised without explicitly alluding to their theological significance, but we can reasonably assume that the words of the Midrash echo in the background: "Just as He is gracious and merciful, so be thou also gracious and merciful" (*Mekhilta de-Rabbi Ismael, Shirata* 3).

## 6. Summary

The purpose of this paper has been to examine whether theories of strong dependence, that is, DCM theories, appear in Jewish tradition. We analyzed several Jewish texts purporting to advocate this theory and found that most of them could, at best, support only a weak version of dependence. DCM features in both Christianity and Islam and, in religious terms, offers a highly appealing thesis. In light of these factors, we viewed its absence from Judaism as a puzzling phenomenon requiring explanation. In the last section of the paper, we argued that the nature of halakhic activity, which grants broad latitude to autonomous human judgment and acknowledges the independence of moral values, could account for it. In line with this argument, we have ended by dwelling briefly on the image of God embedded in *Halakha*, showing it to be incompatible with the one that emerges from DCM. The analysis we have suggested may shed new light on several elements constitutive of Judaism and on the systematic links between them. The absence of DCM theories may help us gain important insights into Jewish ethics, as well as into central aspects of Jewish theology and anthropology.

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