

Chapter One

Four Cubits: Defending a Leibowitzean reading of Maimonides on the Law

Introduction

In one of the concluding chapters of his slender *Faith of Maimonides*, Yeshayahu Leibowitz, one of the most important if more peculiar interpreters of the modern Maimonidean legacy, designs a Maimonides who plots different ends of man: the simple fulfillment of the commandments, intellectual perfection and knowledge of God. Leibowitz first asserts that communal (or, if circumstances dictate, private) worship and the public observance of the commandments constitute the final aim of man, because that man perceives that God alone merits the ultimate values of devotion and contemplation. “The worship of God,” he stresses, “by fulfilling the practical commandments, is the final aim, since the man who recognizes God has nothing to which he can attach a significance of value except the worship of God.”¹ It is by way of the commandments, their implementation and execution, that faithful Jews cleave to God and forestall the enticements of *avodah zarah* (“foreign worship,” or idolatry). Close on its heels, in the next paragraph, he emphasizes that man’s enduring purpose is in fact to refine his intellectual faculties—the faculties necessary for theoretical speculation and rational discourse—so that he may come to know God. He adds later in the chapter that this knowledge of God is man’s goal and not the perfection of his intellectual faculties or correct observance of the Law.

Leibowitz, we may say, gets into a philosophic entanglement, a thicket of possible contradiction from which he will have trouble extricating himself. The execution of the Law, knowledge of God, and the drive for intellectual perfection may well be compatible, but they are surely not the same. Distinctions are necessary, and one concept—law, knowledge or perfection—is obliged to be privileged over the other two. As Isaiah Berlin has argued in a different context, it is difficult, if not impossible, to achieve one aim without a subsequent loss of something else. If you want freedom, liberty, justice, or equality, you may have to curtail one or

¹ Yeshayahu Leibowitz, *The Faith of Maimonides*, trans. John Glucker (Tel-Aviv: MOD Books, 1989), 102

the other; there is no gain in one thing without a corresponding deficit in another. “Everything is what it is,” Berlin writes. His discussion focuses on the positive and negative conceptions of liberty, where he stresses that “liberty is liberty, not equality or fairness or justice or culture, or human happiness or a quiet conscience.”² A man may limit his liberty in order to allow the growth of, say, equality, but liberty and equality, though in part interrelated, are not the same. This is an important principle to keep in mind as we attempt to distinguish between intellectual perfection, knowledge of God and observance of the Law. One question we should pose to Leibowitz is that of whether we are able to uncover a dialectic where observance of the Law, intellectual perfection, and knowledge of God exist in harmony, satisfying the philosopher’s need for intellectual stimulation and the Jew’s duty to worship God.

This chapter will answer in the affirmative, in accord with Leibowitz. By employing David Shatz’s provocative argument that 3.51 rather than 3.54 is the true end of the *Guide*, we will suggest that a halakhic reading of the *Guide*’s conclusion merits consideration and further inquiry.³ Surely this is no final claim—we haven’t struck the Comstock lode of medieval Jewish philosophy after all—on the Maimonidean legacy. Instead it is an addition, a potential extension, to the richness and complexity of the Rambam’s handiwork.

Nevertheless, there does appear to be a confusion in the Leibowitzean definition of the purpose of the commandments, which the opening paragraph touches on. Yet the fault may not lie entirely with Leibowitz. “Maimonides,” Menachem Kellner hypothesizes, ‘did too good a job of hiding his true views’⁴ about the ultimate aim of man. The *Guide* and its subsequent commentaries, including Leibowitz’s, have something unstable about them, a sure interpretive footing resisted by the difficulties of the text. Maimonides did not intend the *Guide* to be a manual for all perplexed Jews; a modicum of scientific learning, hitched to a strong moral sense,

² Isaiah Berlin, “Two Concepts of Liberty,” *The Proper Study of Mankind: an anthology of essays*, ed. Henry Hardy and Roger Hausheer (New York: Farrar, Straus and Giroux, 1998), 197. This essay has been republished in many places, most recently (2002) in another volume of essays, *Liberty*. It was given as a lecture first in 1958, with subsequent revisions.

³ Shlomo Pines made a similar suggestion, although he left the idea dangling. “The beginning of the chapter [3.51] seems, or may seem, to indicate that it is the concluding chapter of the *Guide*... This beginning may appear to suggest that the chapter under discussion was at first intended by Maimonides to be the concluding chapter of the *Guide* and for this or some other reason, he wanted to give it a distinctive character as compared with the other chapters. Actually chapter 54 is the last chapter of the work, a fact which may, but does not necessarily mean that Maimonides changed his mind.” Shlomo Pines, “Maimonides’ Halakhic Works and *The Guide of the Perplexed*,” *Maimonides and Philosophy*, ed. Shlomo Pines and Yirmiyahu Yovel (Boston: Martinus Nijhoff Publishers, 1986), 9

⁴ Menachem Kellner, *Maimonides on Human Perfection* (Atlanta: Scholars Press, 1990), 11

was necessary. An effort must be made, however, to bring clarity where there is apparently only darkness; merely muddling through will not do, even if the *Guide*'s conclusion leaves us as perplexed as before. But first we need to attempt to understand the stumbling blocks, whether perceived or real, that Maimonides puts in front of us in knowing his position on the function of the Law. Therefore, we will parse the end of the *Guide*, with a concentration on 3.51 and 3.54, those dizzying, brilliant, often maddening chapters that have resisted easy interpretation and have confounded attempts to define the Maimonides of the *Guide*, with wildly divergent meanings for dissimilar groups:⁵ mystics, e.g., Abraham Abulafia,⁶ find comfort in his ideal of contemplation, rationalists, e.g., Hermann Cohen,⁷ see them as the zenith of medieval Jewish sagacity, halakhists, e.g., Leibowitz, witness an intellectualized and majestic defense of halakhic life, and secularists, e.g., Shlomo Pines,⁸ find a political philosophy that merges⁸ the best of Jewish and Greek learning. We would, however, do the reader a disservice if we did not first make some preliminary comments concerning Leibowitz's halakhic position,⁹ a position that has commonly been termed 'halakhic positivism,' but for our purposes will be called 'halakhic positivism.'

Halakhic Positivism

Halakhic positivism can be defined simply enough: it takes the formal fulfillment of the minimum requirements of the commandments as the grounding imperative of Jewish religious life.¹⁰ Halakhic positivism draws from the definition of secular legal positivism. "Legal formalism,' writes Eugene Korn in an essay arguing *against* a primary form of halakhic positivism, 'may be defined as the thesis that denies the need for individual discretion in the application of rules, because all valid judgments in a particular case follow objectively from

⁵ Herbert Davidson concurs. "Clashing, exaggerated pronouncements,' he writes, 'regarding the purpose of the commandments are a *façon de parler* in the *Guide*.'" Herbert Davidson, "The Middle Way in Maimonides' Ethics" *Proceedings of the American Academy for Jewish Research*, 54 (1987), 58

⁶ See Moshe Idel's "Abulafia's Secrets of the Guide: a linguistic turn," *Perspectives on Jewish Thought and Mysticism* (1998).

⁷ See A.S. Bruckstein's new translation of Cohen's *Ethics of Maimonides* (2003).

⁸ See his translator's introduction to the *Guide*.

⁹ Law (halakha) and commandments (mitzvot) will be used interchangeably. Surely they are not simple transpositions, but just as surely each does not exist without the other in the Jewish faith. And this is not the place to get in the discussion of whether Law/halakha is the Oral Law and the commandments/mitzvot make up the Written Law.

¹⁰ I prefer 'halakhic formalism' to 'halakhic positivism' in order to distinguish it from the debate between halakhic positivism and natural law. Leibowitz's position can be defined as halakhic positivism, but the term halakhic formalism permits greater precision; that is to say, our concern is singularly with 'the Law' and not 'law' in general.

clearly formulated rules.”¹¹ Of course halakhic positivism lays over this definition the particularities of Jewish life. We should pause to say what halakhic positivism is *not*: it has nothing to do with Kantian positivistic formalism, the positivistic formalism that demands that aesthetic judgment maintain its premises and truths across geography and generations, and the ethical positivism by which Kant attempted to generate universally applicable moral laws.

The title of this chapter evokes Leibowitz’s halakhic positivism. Quoting Rabbi Ulla, Rav Chiyya bar Ammi¹² declared that, with the Temple in ruins and the subsequent dispersion of the Jewish people, God has nothing in this chastened world but the four cubits of halakha. To Leibowitz, this positivism establishes a necessary foundation for Jewish religious life, reigning in wayward impulses, taming the enticements of antinomianism. The halakhic demands of prayer, for example, are bounded by the sun’s certain rising and falling, not by the unreliable human urge to worship his Maker. Maariv, Shacharit, and Mincha are performed within fixed time constraints. Thus, halakha “perceives man as he is in reality and confronts him with this reality—with the actual conditions of his existence rather than the ‘vision’ of another existence. Religion is concerned with the status, the function, and the duties of man, as constrained by these circumstances,”¹³ such as the element of time—a part of natural reality—in prayer. Moshe Tendler supplements Leibowitz in giving an example of halakhic positivism:¹⁴

“Empathy, charity, kindness are the results observance of the Torah commandments governing our mutual responsibilities. They are not the motivations of these observances. I feed the poor because the Torah so ordained...If my feeding of the poor depended upon the preexistence of a sympathetic soul, as presumed by ethical systems without religion or by those of other religions, the poor would all too often go hungry if I were not at that moment emotionally attuned.”¹⁵

Halakhic positivism, finally, stresses that the “kernel” may not be separated from the “husk,” as

¹¹ Eugene Korn, “Legal Floors and Moral Ceilings: A Jewish Understanding of Law and Ethics,” *Edah Journal* 2, no. 2 (Tammuz 5762), 3

¹² B.*Berakhot* 8a

¹³ Yeshayahu Leibowitz, “Religious Praxis: The Meaning of Halakhah,” *Judaism, Human Values and the Jewish State*. ed. and trans. Eliezer Goldman (Cambridge: Harvard University Press, 1995), 12

¹⁴ Tendler and Leibowitz have an important point of convergence outside of the halakhic life—and one that points back to Maimonides as well: both earned their coin and reputation as scientists, Tendler as a biologist and Leibowitz as a chemist, and Maimonides, in addition to being a physician and philosopher, was also a man of science.

¹⁵ Moshe Tendler, *The Condition of Jewish Belief*, compiled by the editors of *Commentary* (New York: Macmillan, 1966), 242

“substance is embodied in form.”¹⁶ The halakhic idea does not separate out from the specific *mitzvah*.¹⁷

The religious Jew, the man who takes on the yoke of the Torah and its commandments, must concern himself foremost with the straightforward duties of the Law, rather than *lifnim mishurat ha-din* (that which is more than the fulfillment of the Law). Halakhic life, according to Leibowitz, “precludes the possibility of man’s shirking his duties by entertaining illusions of attaining a higher level of being. The religion of Halakhah is concerned with man and addresses him in his drab day-by-day existence.”¹⁸ Going above the Law, perhaps even abrogating part of it by means of over-exertion, potentially denies the Law’s purpose: to order the life of man so that he may worship God properly. The Law handles the prose of existence and not the sweeps of poetry that descend upon man, which are irregular and as aimless as the Law is fixed and purposive. What matters is what endures, not the ephemerality of shadow-lives led by those who choose to put themselves beyond the Law’s reach, according to Leibowitz. One adheres to the Law not out of a sense of meaningfulness or joy. This is not to say that these are inappropriate feelings; they have their place, and are enshrined in the Jewish tradition. But, for all that, they do not constitute legitimate reasons for the perpetuation of the Law. Rather, writes Leibowitz, the commandments are conformed to because it is the “duty”¹⁹ of the Jew to regulate his life in accord with the Law, not because the Law harmonizes with his world-view, station in life or emotional well-being.

As Moshe Tendler has shown, and as Leibowitz asserted throughout his life, the Law dictates action. Correct action, in turn, points toward correct belief and further permits a social existence in which God is worshipped properly. But correct belief and social existence are residual, indirect consequences of the observance of the commandments. The commandments, according to halakhic positivists, do not express speculative philosophical positions (this is not to deny a strong philosophical underpinning, however), are not guides for a robust social

¹⁶ Leibowitz, “Religious Praxis,” 7

¹⁷ Leibowitz: “An analogy with poetry is pertinent...Shakespeare expressed his *eros* in the very specific form of his collection of sonnets—one of the most moving masterpieces of world poetry. A naïve person may contend that it is possible to separate the essence of the Shakespearean *eros* from the artificial and intricate form in which he chose to express it. Such is not the case. Had Shakespeare taken the form of the novel or the essay, the *eros* conveyed would not have been the same. His *eros* could be expressed authentically in no other medium than that of the marvelous form chosen by him. Similarly, the content of Jewish faith—the stance of man before God as Judaism conceived it—can be externalized in one form only, the halakhic system.” “Religious Praxis,” 8

¹⁸ *Ibid.*, 12

¹⁹ *Ibid.*, 12

arrangement, and do not place ethics—the relations between man and man—at the center. Otherwise, Leibowitz suggests, “the observant Jew would be doing service to himself, to society, or to the nation. Instead of serving God he would be utilizing God’s Torah for his own benefit as an instrument for satisfying his needs.”²⁰ Finally, the halakhic positivist affirms that the execution of the Law has no end-point. No matter how often one fulfills his duty, he must gird himself to do it yet again the next day; halakhic practice is without end. Halakhic life does not set the Jew out a journey where, at its conclusion, he can rest his wearied feet and tired soul; there is no repose from an observant life. His reward is that he repeats, without alteration, what he has done the day previous. “Observance of the Torah,” Leibowitz proposes, “in its entirety is merely the training of man for continuation of its observance.”²¹

The Guide on the Law: 1.1-3.50

Among traditionalists, Maimonides the philosopher is often irrelevant, if not outright absent—it is the Rambam, the master of Jewish law and its chief post-Talmudic codifier, who matters. For modernists such as Pines or Lawrence Berman, although they gesture towards the religious basis of Maimonidean philosophy, their concern is focused primarily on interpreting Maimonides through his Greek and Islamic antecedents, leaving the halakhic corpus untouched.²² But for Leibowitz, a synthesis of Maimonides and the Rambam works best, merging the grandeur of philosophic enterprise with halakhic exegesis and observance.²³ Leibowitz resists the easy balkanization: Maimonides the philosopher and Rambam the halakhic codifier. He says of Maimonides: “The very fact that the greatest philosopher of Judaism is the man who was its greatest *halachic* authority is of an extremely profound significance.”²⁴ Despite this claim, it may strain the imagination to presume a one-to-one philosophical and religious correspondence of the author of the *Guide* with the author of the *Mishneh Torah*. They were written at different times, for different audiences, with different purposes. That is why I call Leibowitz’s Maimonides a synthesis. In fact, he makes Maimonidean philosophy a handmaiden

²⁰ Ibid., 17-18

²¹ Ibid., 15

²² This is not to deny the critical and scholarly importance of seeking out Maimonides’ philosophical predecessors: this is what academics do. But there is another, and no less valid, manner in studying the *Guide*; that is, theologically. The distinction between philosophy and theology would be lost on Maimonides, however.

²³ Others have attempted this synthesis as well, with varying degrees of success: HaRav Soloveitchik, Isadore Twersky, David Hartman, Menachem Kellner, and, most recently, Kenneth Seeskin. I see in all these men a larger project to rescue Maimonides from, on the one hand, the obscurities of some of the haredim and, on the other, the papering over of his halakhic relevance by some secularists.

²⁴ Leibowitz, *Faith of Maimonides*, 11

to his legal works. The overwhelming majority of Maimonides' writings center on the detailing and explication of the Torah's commandments, their correct performance and meaning, a meaning not embedded in philosophical conjecture but rather in the worship of God. "This fact is a testimony to the quintessence of Maimonides' philosophical thought, which is not to be found in philosophy, but in faith,"²⁵ Leibowitz states. By privileging faith, not philosophy, he inverts the prejudices of modernity by charging that belief is the site of certainty, while philosophy is mere guesswork (though Maimonides did not see it that way, seeing no need to make unnecessary distinctions between an observant life and a philosophical one). Maimonides' philosophical project "is to underline the total significance of religious consciousness, which leaves no room for any other value."²⁶ The philosopher pursues knowledge that will give him greater insight into the cosmos, his interior life, or man's proper duties in the world. Leibowitz proposes that Maimonides' pursuit was different. What he sought, in contradistinction to the philosophers of Greece, was knowledge of God, a knowledge that "is not a part, or a detail, of general human knowledge."²⁷ It is time to turn to the *Guide* proper and the flux of interpretation about the Law therein.

In 1.54, Maimonides implies that the man who wishes to know God must study His attributes of action. He is not endorsing the mystical opinion that one can actually know God—such a belief borders on, if it doesn't cross over into, idolatry—instead he asserts that one can know His ways, what He does but not what He is. But he puts in front of us one of the stumbling-blocks mentioned at the beginning. If we follow Leibowitz's line of thought, the fulfillment of the Law trumps knowledge of God. At least in the first book of the *Guide*, Maimonides doesn't permit a Leibowitzian interpretation. "...[H]e who knows God *finds grace in His sight*,' he writes confidently, 'and not he who merely fasts and prays...'"²⁸ It appears here that the Jew who simply discharges his minimal duty lacks the philosophic heft—the tools of rational insight and contemplation—to know God. They observe out of duty or tradition alone, and Maimonides scolds them as "the ignoramuses who observe the Law."²⁹

²⁵ Ibid., 14

²⁶ Ibid., 18

²⁷ Ibid., 15

²⁸ Moses Maimonides, *The Guide of the Perplexed*, ed. and trans. Shlomo Pines (Chicago: University of Chicago Press, 1963), 1.54, 123

²⁹ Ibid., 3.51, 619

Maimonides places yet more difficulties in front of the reader. Even before the dense intricacies of the final chapters, the *Guide* puts forward a number of different, perhaps contradictory, theses on the meaning, motivation and purpose of the Law. In 3.29, Maimonides assures us that the original objective of the Law was to eradicate idolatry, to stamp out that which leads to the worship of something other than God. Bringing idolatry to heel leads to true worship of God, but by the reasoning of 3.29 the commandments were passed down at first to halt the introduction of *avodah zarah* into Jewish worship.³⁰ 3.33 of the *Guide* locates the object of the Law in the extinguishing, or at least the attenuation, of impulses that direct the mind and heart to the puerile love of pleasure and seductions of sexual desire. The *Guide*, if looked at as a single, unbroken philosophic statement, takes a negative view of the body, for it is an attendant of the accident of matter, which by Maimonides' lights is to what evil attaches.³¹ This negative attitude towards the "squalor of biological existence"³² can perhaps be attributed to the ideal of contemplation that runs throughout the *Guide*.

The *Guide* further expands, or perhaps redirects, the purpose of the commandments in 3.31. Halakha now highlights three things: "opinions, moral qualities, and political civic actions."³³ Thus 3.33 and 3.29 could be folded into this chapter, but Maimonides does not make this explicit. Leibowitz writes that morality for Maimonides is *not* the purpose of the commandments, that he considers it as a transitional stage to the greater purpose—a knowledge of God that guides the Jew to the observance of the commandments. Morality, he counters, has no place in religious life. Like Kierkegaard³⁴ before him, he insists on the autonomy of religious

³⁰ Ibid., 3.29, 517—"You know from texts of the *Torah* figuring in a number of passages that the first intention of the Law as a whole is to put an end to *idolatry*, to wipe out its traces and all that is bound up with it, even its memory as well as all that leads to any of its works."

³¹ Ibid., 3.8, 433 backs this interpretation: "Also the commandments and prohibitions of the Law are *only intended* to quell all the impulses of matter" (emphasis added).

³² Leibowitz, "Religious Praxis," 13. Leibowitz uses this phrase to note that the "largest section of the Mishnah, the first crystallized formulation of the Halakhah, is *Seder Taharoth*..." which details the halakhot as they pertain to the body and its functions. His larger point in all of this, of course, is that the Law concerns itself primarily with the externals of everyday life, both in the domestic sphere and in the public square. The Law covers the entirety of life from womb to grave. Its emphases must be, for example, first on the washing of hands rather than the search for perfection. That which takes place more often takes precedent over that which is less common (donning the *tallis* before donning the *tefillin*)—this is a Talmudic principle.

³³ Ibid., 3.31, 524

³⁴ Kierkegaard delimited the parameters of the ethical and the religious. Although he does not declare Kierkegaard's influence explicitly, Leibowitz drew on this in his rejection of ethical monotheism. Kierkegaard wrote, in *Fear and Trembling*, that the Kantian notion that "the ethical is the universal" does not apply to the sphere of the religious, which stands independent of moral directives. Morality is human; the religious is divine. Both are important, but just as surely both are different. Leibowitz, who refused to countenance the marriage of religion and ethics, adds that the line from the Shema (the third paragraph, drawn from Numbers 15:39)—"...remember all the commandments of

life apart from the exigencies of ethics, an autonomy that the general trend of modern Jewish philosophy has considered expendable as it favors ethical monotheism. He would agree with J. David Bleich, who asserts that “the norms of *halakhah* constitute the sole constraint upon human conduct,” rejecting that “there is any content of natural morality that is not encompassed by the subject matter of the *halakhah*,” and maintaining that “there is no room in Judaism for accommodation of the moral demands advanced by individual conscience.”³⁵ Leibowitz argues, perhaps exaggeratedly, that Sophocles’ *Antigone* and her demand for Polyneices’ proper burial or Kant’s *Grundlegung* are finer sources of moral edification than the Tanakh,³⁶ which has value and commands our devotion only insofar as it is the word of God. According to him, man’s only merit follows from the fact that he was created in God’s image, not from any naturalist conception of human life. Leibowitz, however, founders a bit. About the relationship of halakha and morality, he states it is “only of value as far as it is useful for removing the psychological obstacles from man’s way toward perfection, which is the knowledge of God.”³⁷ Yet as we will see in the last chapters Maimonides affirms that part of the intellectual perfection leading to the knowledge of God is the perfection of moral qualities.

For our last example of the obstacles that Maimonides erected to divert the wayward and inattentive reader from his true views, we turn to the famous passage in 3.27 where he introduces a two-pronged approach to the purpose of the commandments. The Law, he says, directs man to two separate yet intimately related goals: the welfare of the soul and the welfare of the body. The welfare of the soul inculcates proper beliefs regarding the Law, “corresponding to [the multitude’s] respective capacity.”³⁸ The welfare of the body consists of the enhancement of mutual relationships. This is done one of two ways: the elimination of iniquitous conduct among men and the propagation of virtues that can be employed in a properly ordered city. This seems, at first glance, inadequate. The welfare of the soul looks like little more than the reduction of the Law into psychological dispositions, while the welfare of the body appears to be little more than

God and do them, and do not seek after your own heart and after your own eyes...”—“is a negation of Kant’s great principle... [because] the believing man is guided by his consciousness of his standing before God, not before man. His judgment is not moral. Morality is an atheistic category.” The quote from *Fear and Trembling* is found on page 54 of the Hong translation, published by Princeton University Press (1983). The Leibowitz quote comes from “The Religious and Moral Significance of the Redemption of Israel,” *Judaism, Human Values, and the Jewish State*, 115

³⁵ See Korn, “Legal Floors and Moral Ceilings,” 4

³⁶ Leibowitz makes this argument in “Religious Praxis,” 11.

³⁷ Leibowitz, *Faith of Maimonides*, 59

³⁸ *Guide*, 3.27, 510

(1) a basic ethical proposition (not wronging another) and (2) civic integrity (the virtuous city). Surely Maimonides meant more than these transparent, if important, truisms.

The welfare of the soul is held to be superior. It is, in fact, “the ultimate perfection.”³⁹ Yet it is not perfection “achieved directly by the Law.”⁴⁰ Halakha, according to 3.27, does not provide for knowledge of God; it points man to his appropriate course, warning him of possible missteps, *but is not perfection itself*. It seems that the Law is necessary, but necessarily secondary to the ultimate perfection: knowledge of God. Halakhic life has instrumental value, not ultimate; it is a way-station to something greater.⁴¹

3.54: the conclusion?

3.54, the ostensible end of the *Guide*, continues to judge the commandments by their instrumentality. That is to say, the commandments serve some alternate purpose outside the straightforward perpetuation of their observance. The majority of the comments in the *Guide* concerning the commandments can be construed as denying the autonomy of the Law, folding it into considerations such as idolatry and properly formed civic governance.

This chapter provides another wrinkle in Maimonides’ comments on the nature and function of the commandments. He lays out a typology of perfection. The first two—perfection of possessions and of bodily constitution and shape—need not detain us, but the third perfection—the perfection of the moral virtues—provides an interesting contrast to the philosophical halakhic positivism we will see in 3.51. Maimonides places the majority of the commandments under the rubric of perfected moral habits. “Most of the *commandments* serve no other end than the attainment of this species of perfection.”⁴² These Laws, however, are training only for a final perfection. Perfected moral virtue “is, as it were, only the disposition to be useful to people; consequently it is an instrument for someone else.”⁴³ If a man seeks no succor in society’s care, scorns the pleasure of family and home, and fails in his duties towards other men, then these commandments, Maimonides appears to suggest, are pointless.⁴⁴ And this points up a

³⁹ Ibid., 3.27, 511

⁴⁰ David Shatz, “Worship, Corporeality, and Human Perfection: a reading of *The Guide of the Perplexed*, 3.51-54,” *The Thought of Moses Maimonides*, ed. Ira Robinson (Lewiston, NY: The Edwin Mellen Press, 1990), 83

⁴¹ In *Guide*, 3.27, 512, Maimonides suggests that the Law does not “direct attention towards them [correct philosophical opinions leading to knowledge of God] in detail.”

⁴² Ibid., 3.54, 635

⁴³ Ibid.

⁴⁴ A few line later, he says as much: “For if you suppose a human individual is alone, acting on no one, you will find that all his moral virtues are in vain and without employment and unneeded, and that they do not perfect the individual in anything; for he only needs them and they again become useful to him in regard to someone else.”

fundamental question: is 3.54 the *coup de grâce*, then, for the Leibowitzean model of halakhic positivism? Leibowitz, as we have seen, assures us that the Law and Maimonides' exegesis of it resists just this sort of partitioning of the Law, in which some commandments serve to inculcate moral virtues while others inculcate intellectual virtues. But Leibowitz has stressed that the commandments, given to Moses at Sinai and codified over the centuries, are to be observed because the Jew's duty is to worship God through his performance of the commandments, not because they underwrite moral rectitude or intellectual perfection.

The perfection of moral virtues is not the final perfection either. Maimonides claims that the biblical prophets as well as the philosophers—the Greeks and their later Jewish and Islamic interpreters—maintain with him that the perfections of worldly goods, health and moral habits, their accumulation and practice, do not amount to the final perfection. The “true science,” the final perfection, to which man should aspire “is knowledge of Him.”⁴⁵ “[T]rue human perfection,” Maimonides writes, “...consists in the acquisition of the rational virtues... This is in true reality the ultimate end... through it man is man.”⁴⁶ This species of perfection instructs man in the true beliefs “concerning the divine things.”⁴⁷ Where is the place of the Law in this perfection? The Law urges the excellent man, the philosopher-scientist-talmudist, to struggle for true human perfection and sets him on his way, but the Law cannot effect the transition from the attainment of moral virtues to acquisition of the rational virtues (the knowledge of divine intelligibles, understanding of God's attributes of action, the passing away of worldly concerns, et al.). What this species of perfection lacks is a role for the commandments outside of basic training for another, higher level of perfection and the place of the worship of God.⁴⁸ In fact, Maimonides goes so far as to state that the prescriptions and motivations for the Law, its implementation and practice, serve the singularly non-legal purpose of “being but preparations

⁴⁵ *Guide*, 3.54, 636

⁴⁶ *Ibid.*, 3.54, 635

⁴⁷ *Ibid.*

⁴⁸ Kellner has a helpful summation: “The claim that the *summum bonum* consists in perfection of the intellection [part of the acquisition of the rational virtues] and that such perfection constitutes the necessary and sufficient condition for attaining a share in the world to come goes against the grain of rabbinic Judaism, with its emphasis on perfection through observance of God's commands and on purity of motive. This position found its classic expression in the well-known dictum, ‘study is not the main thing, but action.’ For Maimonides, as Shlomo Pines notes, there is no room for ‘saintly simplicity’ of the sort approved of, if not necessarily prized by, the Rabbis.” Kellner, *Maimonides on Human Perfection*, 3. One can understand, and even sympathize with, those medieval rabbis who sought to ban or burn the *Guide*. They were surely misguided and shortsighted, but their emphasis on the performance of the commandments did not seek philosophic justification. Their parochialism may seem quaint yet one is hard pressed to deny that they had the best interests of Judaism, for the multitude of the people, in mind.

made for the sake of this end”⁴⁹; that is, knowledge of God. Halakha attends, in 3.54, only to a preliminary stage of religio-philosophic life. The Law is like a ship on a long sea voyage, on a journey with a definite destination. It keeps man from the harm of roiling waves, jutting coral and menacing wind. It can put man into port, but once in drydock only knowledge of God can put one’s feet on land. If 3.54 is the true conclusion of the *Guide*, then the Law is necessary but not sufficient, of contingent but not ultimate value.

If this chapter is indeed the end of the *Guide*, then Leibowitz again stumbles. He writes, correctly, that the true human perfection admits no value for nature or natural reality. In 3.54, nature falls away, leaving an almost ethereal perfection wherein the excellent man breaks free of the fetters of natural reality by returning to his true state, which is the intellectual contemplation of God afforded by the acquisition of rational virtues. But Leibowitz insists that this breaking away from nature “direct[s] man toward the worship of God,”⁵⁰ not to rational virtue, which serves the ends of man. Rational virtues, for Maimonides, aid the excellent man, or the one aspiring to such excellence, to the assimilation of God’s attributes—“loving-kindness, righteousness, and judgment”⁵¹ (Jer. 9:23)—which lead to the ultimate perfection, the one perfection that one may confidently glory in, that is, “apprehension of Him.”⁵² Leibowitz understands this passage to mean that God’s attributes are not ascribed to God Himself, but rather as implications of the world of nature.⁵³ And the crucial implication of God’s loving-kindness, righteousness and judgment is found in “God’s creation [of the world], insofar as man can grasp it and understand its laws.”⁵⁴ Loving-kindness signifies “the very existence of the world.”⁵⁵ Righteousness represents “the existence of living things possessing powers implanted in them.”⁵⁶ Judgment indicates “the sequence of events succeeding one another by the necessity inherent in the relations between them.”⁵⁷

⁴⁹ *Guide*, 3.54, 636

⁵⁰ Leibowitz, *Faith of Maimonides*, 38

⁵¹ See *Guide*, 3.54, 637

⁵² *Guide* 3.54, 638

⁵³ Leibowitz or his translator misidentify the passage from Jeremiah (“loving-kindness, righteousness, and judgment”) as 9:24, not as 9:23. See *Faith of Maimonides*, 60

⁵⁴ Leibowitz, *Faith of Maimonides*, 60

⁵⁵ Yeshayahu Leibowitz, “Divine Governance: a Maimonidean view,” *Judaism, Human Values, and the Jewish State*, 57

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

For all that, however, what is absent, at least from a halakhist perspective, from 3.54 is any mention of the commandments. If 3.54 is truly the end, then a Leibowitzean interpretation fails, takes false turns and leads the reader along the wrong corridor of Maimonidean philosophy. Maimonides assures us in 3.54 that “apprehension of Him” manifests the apex of religious life and philosophic inquiry, without gesturing towards the role, even if subordinate, of observance and worship. Worship of God, Leibowitz emphasizes, arises from and takes place in “the fulfillment of God’s commandments.”⁵⁸ The ostensible concluding chapter of the *Guide*, in short, undercuts the elevation of the Law we will observe in 3.51, while at the same time lionizing a contemplative, wisdom-based apprehension of God.

3.51 and Maimonides’ True Purpose

Whereas 3.25-49 sets up a template of reasons behind the commandments and concerns all religious Jews, and 3.54 presents more abstruse rationales for the commandments, 3.51 negotiates man’s observance of the them. The concluding chapters, 3.51-54, were never intended to include all Jews, only those with the requisite scientific, philosophical and theological preparation. Before we turn our attention to 3.51 one may well ask: can the Law, which is objective, fixed and public, split and serve dual purposes—one Law for the multitude, one for extraordinary individuals? This breaks principles of halakhic exegesis (the Thirteen Rules, e.g.), which state that the Law must maintain consistency and constancy so far as it is possible.⁵⁹ Can we have halakhic stability if, as David Shatz assumes, “the Law can obviously operate on multiple levels, corresponding to the multiple stages of human development”?⁶⁰ How does one rely on the Law if it becomes unhinged from its foundation, functioning differently for different people? In fact, what stops one from dividing beyond the multitude and exceptional individuals? Maimonides was aware of these potential outgrowths of antinomianism; he sought to bring them to heel.

⁵⁸ Ibid., 105

⁵⁹ One could counter, with some justification, that consistency or unity are problematical if not outright impossible in the Talmud, as it is a series of tractates on widely divergent matters—the rabbis left nothing untouched—composed over hundreds of years in very different socio-political contexts in Eretz Israel and Babylonia. Nevertheless, the rabbis valued consistency as a sign of balance and a gesture towards God’s orderly creation. “In [the] Talmud,” one author writes, “because there is one creator of the universe and one revealer of the law, there must ultimately be an internal consistency between the world and the law, and among the laws themselves. The underlying unity of creation and revelation leads us to expect an internal consistency in halakhah. The job of the Talmud is to discover that unity.” Eric M. Chelven, “Discovering the Talmud.” *First Things* 85 (August/September 1998), 43

⁶⁰ Shatz, “Worship, Corporeality, and Human Perfection,” 85

3.51 has a curiously tantalizing beginning. Maimonides asserts that this chapter is in fact a sort of conclusion. And since we are warned throughout that he will disguise his aims, play lesser men for fools, and demand of the attentive reader that he seek the roots under the topsoil, it is not so great a leap to presume that 3.51 actually completes the *Guide*, as Shatz suggests. Maimonides promises to flesh out an outline of what he calls “the worship as practiced by one who has apprehended the true realities peculiar only Him after he has obtained an apprehension of what He is; and it also guides him toward achieving this worship, which is the end of man...”⁶¹ What the nature of this worship is, whether prayer, contemplation, or halakhic adjudication, is unclear, at least at this point. He tries to clarify this by stating that the excellent individual, the man who seeks ultimate perfection, gives his full attention to God, forsakes anything other than God, and trains his intellect toward a knowledge of God. Following the Leibowitzean model, however, observance of the commandments, and not this vague Maimonidean “worship,” attunes man to God, directing concentration to Him. By “vague” I mean only that he does not delineate the act of worship: is it sitting alone in bed at night, contemplating God? Is worship the workaday durability of halakhic life in, for example, business dealings, or what Lionel Trilling more generally called the world of “ordinary undistinguished things”⁶²? Maimonides proposes worship, but we are left wanting.

3.51 further strains the Leibowitzean model. Leibowitz assures the reader that—and he apparently believes Maimonides to be in concord as well—the bond between man and God arises from halakha; that is to say, only the Law *binds*. However, the *Guide* sees the bond forming around the intellect. After grasping God’s attributes of action, Maimonides says, the excellent individual should dedicate himself to knowing God, “and strengthen the bond between you and Him—that is, the intellect.”⁶³ The bond is braced by love,⁶⁴ which, although one of the 613 commandments, may well prove unreliable. It is an emotion; it waxes and wanes.

At 3.51:622, Maimonides presents the halakhist with a gift: a clear interpretation of what he sees as the purpose of the commandments.

⁶¹ *Guide*, 3.51, 618

⁶² Lionel Trilling, “Reality in America,” *The Liberal Imagination: essays on literature and society* (New York: Viking Press, 1950), 4

⁶³ *Guide*, 3.51, 620

⁶⁴ *Guide*, 3.51, 621

Know that all the practices of the worship, such as reading the *Torah*, prayer, and the performance of the other *commandments*, have only the end of training you to occupy yourself with His commandments, may He be exalted, rather than with matters pertaining to this world...

This passage—along with other hints—prodded David Shatz into proposing a provocative thesis: that 3.51, not 3.54, is the real end of the *Guide*. For the reader who desires to defend a halakhist, Leibowitzian version of the *Guide*,⁶⁵ then Shatz's suggestion is an excellent conceptual tool. He puts forward the theory that 3.51 "conceptually precedes"⁶⁶ 3.54 because 3.54 offers an unsophisticated and deceptive depiction of human perfection and, by extension, the commandments, as Maimonides ties perfection and the Law together. 3.51, on the other hand, preserves his desire to "conceal complexities, tensions, ambiguities, and uncertainties that characterize his real view."⁶⁷ Shatz notes that 3.54 neglects the "stage of worship," underscoring instead the "stage of apprehension,"⁶⁸ and surely apprehension cannot be man's final aim. Something must follow apprehension, otherwise the excellent man is a dilettante and not a knower of God. The excellent man, unimpressed by the rationalizations of 3.25-49, may fall into antinomianism, a rejection that discards the philosophically crude, if socially necessary, reasons for the Law. Shatz argues, then, that 3.51, in contradistinction to 3.54, is an answer to antinomianism. For the excellent man, the commandments serve as a manual for a "new, higher telos: the commandments assist him in directing his thought to God,"⁶⁹ thoughts which are filtered through the performance of the Law.⁷⁰

Ultimate perfection now is the refinement of the observance of the Law, that it be performed with correct actions and thought. In 3.25-49 man is taught the underlying principles of

⁶⁵ The halakhist interpretation that will be defended here is a response to alternate construals of the *Guide* over the past century. The principal theories are: (1) the replication of God's ethical attributes as ultimate perfection, expounded by Hermann Cohen, Julius Guttman and Steven Schwarzschild; and (2) the replication of God's governance of the universe by establishing virtuous city-states, expounded by Leo Strauss, Shlomo Pines, and Lawrence Berman. This typology is found in M. Kellner's *Maimonides on Human Perfection*, 8ff.

⁶⁶ Shatz, "Worship, Corporeality, and Human Perfection," 77. It is important to state that Shatz's primary concern is with showing that human perfection in 3.51 is fuller and more nuanced than in 3.54. The commandments play an important secondary role in the essay.

⁶⁷ *Ibid*, 91

⁶⁸ *Ibid*, 79

⁶⁹ *Ibid*, 86

⁷⁰ Isadore Twersky notes that even this rationalization can have antinomian implications for the philosophically inclined Jew. In fact, he labels it "philosophical antinomianism." "[K]nowledge of the goal—[that is, intellectual perfection]—deludes or seduces the person into thinking that the prescribed action is dispensable. If he has reached his destination, he may assume that he has license to bypass the intermediate steps. If he should erroneously perceive the prescriptions and proscriptions as *merely* instrumental, with no intrinsic authentication or self-validating worth, the philosophically attuned person may end up ignoring them, completely substituting the ultimate goal for the normative performance." Isadore Twersky, *Introduction to the Code of Maimonides (Mishneh Torah)* (New Haven, Connecticut: Yale University Press, 1980), 393

the commandments, in accordance with his reason. They are instruments for morality, good governance, and maintenance of a sound body and an upright soul. Now the man of 3.51 who has perfected his qualities, “finds out,” writes Leibowitz, “that this faith has no other practical expression except through the fulfillment of these commandments themselves.”⁷¹ We are offered a remarkable dialectic. Leibowitz calls this dialectic a feedback mechanism, a model drawn from the discipline of cybernetics. The affiliation of Law and philosophy shoot across conceptual synapses in this model: “the *halachah*, which is an instrument for educating man toward faith, is then reconceived—by means of this faith—not as a means, but as the purpose itself. Maimonides’ immense philosophical accomplishment has no significance other than bringing man to understand that the worship of God and the fulfillment of Torah and *mitzvot* are the very final purpose attainable by man.”⁷² All of the philosophical premises of the *Guide* come home to roost in this chapter, as philosophy purges false knowledge of God. All of the intellectualizing tendencies, noble in themselves, peppered throughout the *Guide* serve only to reinforce the infinitely greater purpose of halakhic observance. The latent Platonism and overt Aristotelianism of the *Guide* serve to straighten the spine of the philosophically sensitive if religiously errant Jew, to draw from the well of Greek wisdom in order to demonstrate the eternal validity, and philosophic sophistication, of halakhic life. After supping with Plato and Aristotle, Avicenna and Averroes, the excellent man realizes that the fulfillment of the Torah, its *hukim u’ mishpatim*, alone permits man to occupy himself with God, with Maimonides marching out morality and welfare of the body and soul as the training ground for the Jew’s acceptance of the Law. But that training is instrumental; its value, while great, is contingent. It is contingent because an ethical life and a virtuous polity are human ends, susceptible to the corruptions of character or the accidents of matter. They are, in a word, humanistic. And Leibowitz scorns the effort to backdoor humanism into religion. Humanism, to Leibowitz, borders on idolatry: man wields the scepter, wears the crown, acts as if the world should conform to his purpose. Thus, if the commandments serve the ends of man (morality, welfare of body and soul, etc.), then God is an instrument of man. For Leibowitz, then, 3.51 rights the matter: “. . .performing the commandments, not because they have reasons in relation to man, but because they are the commands of God—this in itself is the final aim.”⁷³

⁷¹ Leibowitz, *Faith of Maimonides*, 24

⁷² *Ibid.*

⁷³ Leibowitz, 106

The foregoing demonstrates why it calls for little imagination as to why the patriarch Abraham and the drama of Mount Moriah play such a central role in his philosophy. Abraham, in Kierkegaard's terse phrasing, teleologically suspended the ethical. In the Akedah, Abraham is asked to sacrifice Isaac, the son of his old age. Even though this event takes place before the giving of the Law, Leibowitz's Abraham remains the exemplar of faith because he was enjoined to do his duty even if it meant the annulment of the Covenant of the Pieces, which had been a divine promise. He stresses that "the duties of faith take precedence over all human needs, interests, and values, even those of the divine promises embodied in visions of the future."⁷⁴ Leibowitz's Maimonides, in fine, holds that apprehension, morality and spiritual welfare serve only to further man's definitive end, which is the worship of God by means of the commandments, like Abraham before us.⁷⁵

Coda

We can conclude that a Leibowitzean interpretation of the *Guide* with 3.51 as its terminus can justify the halakhic model that he seeks to defend, but it will not hold if the 3.54 is the end. At 3.51:622, with the reinforcement of Shatz's reading and Leibowitz's feedback mechanism, Maimonides stresses that "all the practices of the worship, such as reading the *Torah*, prayer, and the performance of the other *commandments*, have only the end of training you to occupy yourself with His commandments, may He be exalted, rather than with matter pertaining to this world..." The final aim of Jewish religious life moves from good governance, the inculcation of correct moral opinions and welfare of body and soul to the more bracing, and religiously sound, performance of the commandments. "...[T]he very purpose [of 3.51 and the *Mishneh Torah*] to which this means leads us is revealed to be nothing but the idea of the performance of the commandments."⁷⁶ Leibowitz continues on to say that observance of the commandments makes possible human perfection, but it is neither the purpose of the commandments nor the highest end of man's life. The man of halakha (that is, the man of 3.51), distilled and refined in the person of Maimonides, occupies himself with God and performs "the commandments, not because they

⁷⁴ Leibowitz, "The Reading of Shema," *Judaism, Human Values, and the Jewish State*, 41

⁷⁵ One can argue that Abraham died long before the promulgation of the Law. However, the rabbis held (and hold) that the seed of the commandments was already planted within the patriarchs, that they lived within the strictures of the Law despite living before Moses. Such was their merit.

⁷⁶ Leibowitz, *Faith of Maimonides*, 106

have reasons in relation to man, but because they are the commands of God—this in itself is the final aim of man.”⁷⁷

But halakhic positivists needn't despair that Maimonides, as Kellner writes, “did too good a job of hiding his true views.” There are numerous defensible and judicious readings of the end of the *Guide*, and Leibowitz presents one of them. Isadore Twersky endorses the halakhist approach: “Maimonides believed that knowledge stimulates and sustains proper prescribed conduct which in turn is a conduit for knowledge, and this intellectual achievement in return *raises* the level and motive of conduct.”⁷⁸ Twersky likely would not have gone as far as Leibowitz in shunting aside morality and good governance, but he did recognize that the Law makes Judaism distinctive. Leibowitz of course denies that morality and good governance ultimately promote the worship of God, as ethics and political administration are not the same as observing the Law. Morality and good governance have their value, but it is a lesser one than the value of divine service. The Law, which for the halakhist is of divine origin, does not demand of the Jew that he should observe and take note of right and wrong, but instead that he should observe and take note of right and wrong in the eyes of God, and this occurs only through the performance of the mitzvot. Philosophy, then, is merely an instrument of internal coercion to greater observance of the commandments, according to Leibowitz.

In summary, if Maimonides indeed intended 3.54 to be the *Guide*'s conclusion, then Rav Chiyya bar Ammi's assertion that God has only in His world the four cubits of halakha is meaningless as an element of Oral Torah. But if 3.51 is the terminal point of the *Guide* then, at least by Leibowitz's lights, God's four cubits are secure.

The next chapter makes those same cubits a little less secure. Whereas Yeshayahu Leibowitz narrows the scope of halakhic life and drives a wedge between religious and secular consciousness, David Hartman will widen the range of halakhic activity by insisting on the viability of secular reason within the commanded life. Hartman's Maimonideanism is quite divergent from Leibowitz's, but no less idiosyncratic.

⁷⁷ Ibid.

⁷⁸ Twersky, *Introduction to the Code of Maimonides*, 511