

Jews, Gentiles, and the Modern Egalitarian Ethos:
Some Tentative Thoughts

David Berger

The deep and systemic tension between contemporary egalitarianism and many authoritative Jewish texts about gentiles takes varying forms. Most Orthodox Jews remain untroubled by some aspects of this tension, understanding that Judaism's affirmation of chosenness and hierarchy can inspire and ennoble without denigrating others. In other instances, affirmations of metaphysical differences between Jews and gentiles can take a form that makes many of us uncomfortable, but we have the legitimate option of regarding them as non-authoritative. Finally and most disturbing, there are positions affirmed by standard halakhic sources from the Talmud to the *Shulhan Arukh* that apparently stand in stark contrast to values taken for granted in the modern West and taught in other sections of the Torah itself.

Let me begin with a few brief observations about the first two categories and proceed to somewhat more extended ruminations about the third.

Critics ranging from medieval Christians to Mordecai Kaplan have directed withering fire at the doctrine of the chosenness of Israel. Nonetheless, if we examine an overarching pattern in the earliest chapters of the Torah, we discover, I believe, that this choice emerges in a universalist context. The famous statement in the Mishnah (*Sanhedrin* 4:5) that Adam was created singly so that no one would be able to say, "My father is greater than yours" underscores the universality of the original divine intent. While we can never know the purpose of creation, one plausible objective in light of the narrative in Genesis is the opportunity to actualize the values of justice and lovingkindness through the behavior of creatures who subordinate themselves to the will

of God. If God created the world for his glory, that glory is expressed through human recognition of divine authority as a vehicle for forging just relationships with others. Tragically, however, repeated divine efforts to achieve this objective on a universal level fail.

Not only do Adam and Eve not subordinate themselves to God; they aspire to “be like God by knowing good and evil.” Later, the generation of the flood precipitates the destruction of the world by actions that *Hazal* understand as violations of the canons of proper behavior toward others. “Their final fate was sealed because of robbery”¹—a point whose essential message remains intact even if we assign a broader meaning to *hamas*. But God does not give up, and once again he attempts to create a world without divisions among people. And again he “fails”—and precisely because of another effort, this time on the part of “the generation of division,” to ascend to a level where they can challenge God.

It is only at this point that the Creator, forced as it were by his recognition of the failings of human nature, introduces division in mankind and chooses one family to bear the torch of the original, ultimately universal, objective of creation. The choice of Abraham rests precisely on qualities that counteract those earlier failings. In contrast to the hubris of earlier generations, Abraham declares himself dust and ashes, and in contrast to the unethical behavior of the generation of the flood, he “will instruct his children...to do what is just and right.” The tension between Abraham’s two famous confrontations with ethically problematic divine behavior underscores precisely these two characteristics. Faced with a direct divine command, he utterly submits; told of a divine plan affecting others, he issues a challenge based on his perception of a violation of what

is just and right, though it is on that very occasion that he underscores his standing as dust and ashes.²

Though the choice of Abraham and his descendants represents a short-term narrowing of God's focus, it seems highly improbable that it represents a permanent abandonment of the great aim of creation implied in all that went before. Rather, it is God's way of taking a longer, slower, surer path to the achievement of his universal objective. The messianic dream in its broadest and most inclusive version is implicit at the moment of creation—this, I think, is the meaning of the rabbinic vision of the pre-existing soul of the Messiah-- as well as at the election of the father of Israel, who is also the father of a multitude of nations.³

Notwithstanding this universal goal, the election of Israel, formalized at Sinai, unquestionably establishes deep differences between Jews and non-Jews. Israel becomes a kingdom of priests and a holy nation with all that such hierarchical language implies; the set of obligations and beliefs embodied in the Torah elevate the recipients of the revelation even as they are warned that it was not their own righteousness that entitled them to this privilege; the status of Jews and gentiles with respect to ritual, to purity and impurity, and to the establishment and dissolution of marital ties is marked by sharp distinctions. On the whole, I do not think that this complex of differences, especially if understood in the way that I have presented it, strikes contemporary Orthodox Jews as troubling. Quite the contrary. The sanctity of Israel, with all the responsibilities that it imposes, is a badge of honor. We are inclined to see the radical leveling of difference and the relentless relativization of values in extreme expressions of multiculturalist ideology as proper objects of criticism rather than ideals worthy of emulation.⁴

The manner in which some of the differences in ritual status are formulated can nonetheless jar our sensibilities. Thus, there is—or should be-- nothing troubling about the position that the ritual status, or non-status, of gentiles excludes them from performing valid ritual slaughter even if they are under constant observation. But anyone attuned to an egalitarian ethic will be deeply shaken by Ravad's extraordinary outburst in response to Maimonides' admittedly surprising ruling that a gentile's slaughter, while not rendering the animal fit for consumption, can remove it, if only on the level of biblical purity law, from the status of *nevelah*: "This is one of his ideas, and none of them is less worthwhile than this one. For gentiles are like animals; they neither impart impurity nor become impure. A people compared to a donkey. The nations are like a drop in a bucket (Isaiah 40:15). Let the wind carry all of them away, and anyone who regards them as anything has gathered a handful of wind."⁵

This is no ordinary disagreement even by the standards of Ravad's tempestuous personality, and we are eminently justified in seeing it through the prism of the Jewish experience in medieval Europe. I do not advocate mechanical historicizing of such statements, nor do I believe that positions influenced by a rabbi's experience should automatically be discounted. Nonetheless, not only do I see no religious obligation to read the formulation of this stricture in a historical vacuum; the change in context is precisely what gives us the right to denounce a contemporary Jew who would use this language while retaining our reverence for the great medieval talmudist.

Sometimes the relationship between sharp language and the essential position is more intimate, and it appears more difficult to separate the two. One can assert, for example, that Jewish law does not recognize some gentile family relationships or that

sexual relations between a Jewish woman and a non-Jewish man do not have certain legal consequences without resort to demeaning categories. In these instances, however, the Talmud's assertion of the former position and Rabbenu Tam's affirmation of the latter are explicitly grounded in the biblical verse that "their issue is the issue of horses."⁶ Nonetheless, it is beyond question that neither the Talmud nor Rabbenu Tam held the generalized position that gentiles are not to be considered human; the extreme language here was generated by the biblical verse, and its application is limited to the immediate contexts.

Rabbenu Tam's reaction to the well known Talmudic assertion that Jews are called *adam* while gentiles are not demonstrates his readiness to assign untrammelled "adamhood" to non-Jews. *Tosafot* notes an apparently contradictory Talmudic statement, based on a verse containing the word *ha-adam*, that a gentile who studies Torah is like a high priest. Though other solutions are possible—and attested—Rabbenu Tam famously provided what appears to be a purely technical distinction between *adam* and *ha-adam*, leaving gentiles in the latter category without hesitation or limitation.⁷ With specific reference to medieval Ashkenazic texts, Jacob Katz has emphasized the importance of local context in limiting the scope of halakhic statements. In his study, the emphasis was on "liberal" statements that were not generalized beyond their original application, but the point is no less valid with respect to "intolerant" statements. It is not apologetics but simple common sense and the consistent application of scholarly method that preclude the assertion that Rabbenu Tam—or the Talmud—equated gentiles and horses.

Even the phrase "a people compared to a donkey," alluded to by Ravad and used by the Talmud in discussions of gentile slaves, does not intend such a simplistic,

generalized equation. The Talmud (*Ketubbot* 111a) asserts that even a gentile maidservant in the Land of Israel is guaranteed a place in the world to come. How do we know this? The remarkable answer is that we derive it from the “fact” that gentiles are called “a people compared to a donkey” combined with Isaiah’s declaration that God gives life to “the people” living in the holy land. What makes this derivation all the more striking is that the term “people” (*am*) in the rabbinic phrase is a play on words based on an expression in Genesis where the relevant word is “with” (*im*). Thus, intellectual dexterity of the most flexible sort is mobilized to grant these so-called donkeys eternal bliss.

We move now from difference in ritual standing and sanctity—intrinsically untroubling though sometimes described in disturbing language—to affirmations of essentialist distinctions of the most profound sort. Precisely because Adam was created singly, anyone arguing for a metaphysical chasm between the Jewish and gentile soul must overcome a daunting obstacle. “Beloved is man because he was created in the image; special love is accorded him because he was created in the image of God.... Beloved are Israel because they are called children of God; special love is accorded them because they are called children of God” (*Avot* 3:14). Israel’s privilege is monumental, but it does not penetrate to the core, defining element providing human beings with their unique dignity.

The Talmudic assertion that serves as justification for a far-reaching position standing in considerable tension with this mishnah is the ascription of a largely undefined taint to non-Jews. The serpent, understood to have had sexual relations with Eve, injected her with filth. This filth was removed from those who stood at Sinai—including

indirectly future converts to Judaism—but not from gentiles. In one of the passages in which this assertion appears, the retention of this impurity explains the presumably unhealthy sexual proclivities evident among non-Jews.⁸ Granting full allowance to this rabbinic position, I think it is fair to say that it describes a taint, not a qualitative difference in the soul itself.

The views of medieval and early modern Jews on this matter span a substantial spectrum. While most if not all Jews affirmed that the chosen people had certain moral qualities or inclinations absent or less pronounced among gentiles, I do not believe that either philosophically oriented Sephardim or Ashkenazic talmudists thought in terms of radically different souls for Jews and gentiles. Medieval philosophers addressed the nature of the human soul and its component parts in numerous contexts without proposing such profound distinctions, and I am inclined to regard this as more than an ordinary argument from silence. Jews have superior characteristics, but they are made of essentially the same spiritual ingredients.⁹

There is, however, a different strain in the tradition. It is very well known that Judah Halevi ascribed a special divine element to the Jewish people accounting most notably for the restriction of prophecy to Jews. This element was latent even in Terah, though it abandoned the Jews, at least in its manifest form, during the exile. Converts purify their soul through the pursuit of Jewish practices, but in the first generation they remain excluded from prophecy.¹⁰ A perusal of this skeletal and perhaps tendentious summary makes it clear, I think, that even Halevi speaks of a distinction that does not cut to the very core. The divine element can somehow be attained within two generations through spiritual effort, and it can be submerged during conditions of adversity. Halevi's

converts are not excluded from the drawbacks of the gentile soul because they stood at Sinai; at the same time, the purification resulting from observance of the Torah does not appear to be directed to the uprooting of a deep seated, metaphysical filth.

Maharal provides a somewhat stronger contrast. Jews, including converts, possess a soul that is more separated from the body than that of gentiles and hence less susceptible to its influence. In addition, it is better prepared for spirituality, so that Jews are more resistant to passions and more receptive to Torah.¹¹ These and other differences affirmed by Maharal are surely profound, but even they do not amount to the existential chasm that appears in some kabbalistic texts and reaches a crescendo in certain forms of hasidic thought, most notably the *Tanya*. All people, we are told, have a soul formed from the husks (*qelippah*), but the Jewish soul is from *qelippat nogah*, which contains good. The gentile soul, on the other hand, is from the other three *qelippot*, “which contain no good at all” (*she-ein bahem tov kelal*). In addition, Jews have a divine soul (*nefesh elokit*), “a part of God above,” which is entirely absent in gentiles.¹² While “no good” may well mean only “no accessible good,” we find here a stark contrast on the deepest existential level.

I see no honest way to mitigate the force of this position significantly, but someone more conversant with hasidic thought may. An unqualified affirmation that there is no good in gentiles flies in the face of a mountain of contrary evidence: the creation of all human beings in the image of God, the ability of gentiles to become *gerei toshav*, their capacity to become *hasidei ummot ha-olam* and attain a portion in the world to come, their potential, even if only metaphorically, to be like high priests. Whatever the approach of the *Ba'al ha-Tanya* may have been to these texts, we are in any event not

dealing with binding doctrine. A believing Jew is free to reject the positions of Halevi, of the Maharal and of the *Baal ha-Tanya* on this matter and embrace the position that whatever advantages the chosenness of Israel confers, they do not extend to a radical difference in the essential makeup of the Jewish soul.

And so we arrive at the third and most daunting category, where we do confront binding doctrine or binding law. The list of discriminatory provisions in Jewish civil and criminal law (some of which do not apply to a *ger toshav* [resident alien]) need not be assembled through painstaking original research. The task has been performed for us by apostates from Nicholas Donin to Johannes Pfefferkorn and beyond, by their Christian disciples in medieval and early modern times, by more recent missionaries, by the rabbinic contributors to the Baruch Goldstein memorial volume, and by modern antisemites, both Jewish and gentile. These provisions include *inter alia* the exemption from returning money obtained through an error made by a gentile, the exemption from returning his or her lost object (and, according to the Rambam, even a prohibition against doing so), discrimination regarding liability for damage to property, the existence of a death penalty for killing a Jew but not for killing a gentile, the imposition of a death penalty for violation of any of the Noahide laws, and the injunction to avoid saving the life of a gentile even on a weekday.

It is an understatement to assert that such laws violate the contemporary egalitarian ethic. While the Torah contains other provisions that appear ethically problematic, they apply in limited or exceptional situations: Amalek, the seven nations, Midian, *mamzerut*, *iggun*. Ultimately, we recognize that the will of God does not always yield to our understanding. In this case, however, we face regulations built into the

everyday functioning of Jewish law in absolutely normal situations that sharply contradict the moral instincts of many religious Jews. This is the only area of *halakhah* where I have been told by more than a handful of serious Orthodox Jews over the years that they really do not care what rabbinic authorities may say. They know what is right and wrong and are certain that a true understanding of the Torah would have to accord with so primal an instinct. We often point—with absolute justice—to the ethical teachings of the Torah as one of the arguments for believing in its divine origin. From this perspective, a set of laws so deeply in tension with our ethical sense can constitute a challenge to faith itself.¹³

In extremis, believing Jews are obligated to believe come what may. But the suppression of doubt in a matter like this may well interfere with our ability to understand the true intent of the Torah, whose meaning is routinely uncovered through a process of questioning, of adducing contradictions, of expressing perplexity. This particular perplexity cuts much deeper than most, but perhaps that means that we should confront it all the more seriously rather than declare it too dangerous to touch.

It is for this reason that I welcomed the controversial publication of R. Yehiel Weinberg's letters expressing his distress over some of these texts.¹⁴ That very distress is Torah-- *ve-lilmod anu tzerikhim*. R. Weinberg has taught us that we are permitted to agonize over these questions, that we are not defying God's will in doing so, that this is not, as a *talmid hakham* told me about a related matter, *periqat 'ol*.

My personal perplexity about these matters was initially awakened as a teenager when years of reading the Hertz *humash* suddenly collided with the *Entziqlopedia Talmudit* article on *Ben Noah*. (I still regret the eclipse of the Hertz *humash*, which, for

all its drawbacks, introduced a generation of Jews to a humane and uplifting vision of Judaism.) To a significant degree, my mind was set at ease during my second year at Yeshiva College, when I studied in the *shiur* of R. Ahron Soloveichik. Time after time, both in his celebrated *hashkafah shiurim* and in the course of standard analyses of *gemara*, R. Soloveichik reflected profound sensitivity to moral issues of the sort that concerned me.

Forty years later, I would not want the recollected impressions of a youngster to serve as definitive statements of R. Ahron's views. Nonetheless, my antennas with respect to these issues were very sensitive, and this is what I think I remember. He described slavery as a concession to human frailty analogous to the *eshet yefat toar*. He made the point that *lo taguru mi-penei ish* does not apply to the realm of Noahide law, indicating, I believe, that the absence of this requirement to apply the full force of the law come what may meant that prosecution and sentencing are open to the discretion of the court. He argued that one reason why we stop the recitation of the divine attributes after *ve-naqqeh*, refraining from listing the attributes of vengeance, goes beyond the obvious point that we do not want to remind God of those attributes. After all, he indicated, this self-interested reason may not be sufficient to overcome the stricture against ending a biblical quotation in the middle of a verse. Rather, we remind ourselves that the principle of *imitatio Dei* is restricted to the attributes of mercy. *Mah hu rahum, af attah rahum*. Not *mah hu qanna, af attah qanna*. Only God can apply the attributes of vengeance properly.

With respect to another moral issue unrelated to our concerns, he made an amusing but deeply serious observation about a passage in *Bava Metzi'a*. The *gemara*

asserts that the financially strapped borrower tends to trust the more successful lender because he is impressed by the verse, “The integrity of the upright guides them (Proverbs 11: 3).” The latter, on the other hand, does not trust the former because of the second half of that verse, which asserts that “the deviousness of the treacherous leads them to ruin” (*Bava Metzi’a* 35a). “Do you think,” exclaimed Rabbi Soloveichik, “that the *gemara* is a Republican?!” The passage, he said, reports the erroneous assumptions of the parties; it does not endorse those assumptions. A theological-moral judgment determined the interpretation of the text.

Finally, and most important of all for our purposes, Rabbi Soloveichik addressed the understanding of *qiddush ha-Shem* as a reason for returning a lost object to a gentile. He insisted with uncompromising vigor that this is not merely a pragmatic concern with the displeasure of gentiles. There are many things we do in conformity with Torah law that gentiles do not like. Do we, then, abrogate the *halakhah* in all those instances? The question answers itself. Rather, the category of *qiddush ha-Shem* is activated precisely when the deep values of the Torah really demand a particular behavior. Evidence for this position, he said, is in Shimon ben Shetah’s indignant response when his students suggested that he exercise his legal prerogative to keep the precious stone found on an animal purchased from a gentile. He did not say, “I prefer to bring about a *qiddush ha-Shem* by returning it.” He did not even say, “How can you imagine that I would choose wealth in preference to a *qiddush ha-Shem*?” Rather, he introduced this point by exclaiming, “Do you think Shimon ben Shetah is a barbarian?!” (*Yerushalmi Bava Metzi’a* 2:5 [8c]) As in the case of the Ramban’s discussion of *naval bi-reshut ha-Torah*

and the Rambam's description of the proper treatment of a gentile slave, the Torah can require an action that the *halakhah* does not.¹⁵

I shall return to this critically important matter later on, but first we need to examine the approaches of earlier Jews who were not unaffected by the ethical concerns raised by some of these laws. Every *bar bei-rav de-had yoma* conversant with this issue is familiar with the fact that ha-Meiri must play a significant role in this discussion, and I shall discuss his views presently. First, however, we must set forth the outlines of the complicated relationship between treatment of gentiles in general and treatment of idolaters in particular. I have already alluded to the fact that many of the discriminatory laws do not apply to a *ger toshav*, who formally accepts the seven Noahide laws that include the abjuring of *avodah zarah*. One is obligated to save the life of such a gentile and to support him. On principle, then--and this is a matter of the first importance--gentiles do command a level of treatment much closer to genuine equality in Jewish civil and criminal law once they assume the obligations that the Torah requires of them.

The use of this category, however, is problematic for at least two reasons. First, even if the procedure for accepting a *ger toshav* were operative when the Jubilee is not, hardly any gentiles could be expected to appear before a rabbinic court to formalize their status, and, in all candor, any such expectation on our part would not be reasonable. Second, even if we were to dispense with a formal declaration, the most upright Christians would run afoul of the problem of *avodah zarah*. It is well known that long before ha-Meiri, Jews in Christian countries began to struggle with the question of Christian *avodah zarah* for reasons that had nothing to do with theology or tolerance and everything to do with the need to make a living in *galut Edom*. I have recently written an

assessment of Jacob Katz's *Exclusiveness and Tolerance*¹⁶ and will not traverse in detail the territory covered in that work. It is, however, essential to recognize that despite widespread misunderstanding, Ashkenazic Jews almost certainly never asserted that classical Christianity was not *avodah zarah*—even for gentiles. A crucial *tosafot*¹⁷ does recognize that Christianity differs from paganism since its adherents intend to worship the Creator of heaven and earth; nonetheless, because Jesus of Nazareth is included in their conception of God, technical *avodah zarah* remains, all the more so when they mention him explicitly.

If, then, we apply all the discriminatory laws to anyone who has not fulfilled the formal requirements for becoming a *ger toshav*, we face an acutely uncomfortable moral situation. That Orthodox Jews benefit from the modern egalitarian ethic is too obvious to require demonstration. Beyond this, we participate, though perhaps less often than we should, in the moral discourse of the broader society, describing Jewish values as a model for the world. Orthodox Jews, to take the most relevant issue, have taken positions on abortion, assisted suicide, and the termination of life support in which we regularly speak of the sanctity of life as a supreme Jewish value. What do we say if a knowledgeable non-Jew proceeds to ask how it is that—leaving aside medical professionals and considerations of *eivah*--we are forbidden to save the life of a gentile, even a decent gentile living in a decent society? Do we respond that all this upright, endangered gentile would have had to do is formally (or, if we are feeling generous, informally) accept the Noahide covenant, which includes abjuring both Christianity and secularism? Would we be embarrassed to say this only because of *eivah*? Do we believe that this position sits comfortably with the moral tenor of the written and oral Torah as a whole? To make an

already sharp formulation sharper, what would we say if the gentile in question risked his life to save Jews during the Holocaust and did so, as many of the rescuers in fact did, precisely out of Christian convictions?

Let us return now to the era of *Tosafot*. With the Paris disputation of 1240, a new form of pressure was brought to bear regarding the moral issues of direct concern to us here. Nicholas Donin leveled more than one accusation against the Talmud, but its discriminatory approach toward gentiles was a significant component of his indictment. Some of his examples, most notably, “Kill the best of the gentiles” presented as a standard injunction of Jewish law, could honestly be countered as the hostile distortions that they were. But others were accurate depictions of real *halakhot*. R. Yehiel of Paris responded by pointing to a series of positive Talmudic statements about attitudes toward gentiles (e.g., *Gittin* 61a), and we would do well to remember that those passages are also real. He went on to assert that many of the discriminatory laws apply only to pagans of old, perhaps even to the seven nations of ancient Canaan, not to contemporary Christians. To demonstrate this, he pointed to the undeniable fact that Northern European Jews, who were willing to die for their faith, engaged in business dealings with Christians that contravened many of the Talmudic prohibitions against pursuing such activities with idolaters.

Not all of R. Yehiel’s assertions were sincere, but I think that Katz was correct in asserting that “the situation created by the controversy may have advanced the thought of the [Jewish] disputants.” In the case of the Church, the disputation was a move away from toleration, but with respect to the Jews, “the same event assisted, or even compelled [them] to take a further step toward the ideal of religious tolerance.”¹⁸ Writing about a

later polemic in which the post-Meiri Jewish author was very likely sincere in distinguishing Christians from the gentiles of the Talmud, I put the point as follows: “In the fourteenth century, Iberian Jews were faced with a massive paradox that they could not exploit. Hostile, intolerant Christians attacked Jews for being hostile and intolerant. It is not a pleasant sight to watch [the author’s] attempt to reevaluate Talmudic material while conceding by his silence—and sometimes by more than silence—the kindness and benevolence of late medieval Christian society. And this paradox may be eclipsed by an even greater one. The pressures of the new Christian attack may well have been instrumental in broadening and deepening a sincere Jewish interpretation of sacred texts in a direction that created a genuinely more positive attitude toward the religion of the oppressor.”¹⁹

As Jews faced these *halakhot* in polemical and non-polemical contexts, some of them began to ask whether the larger will of God made larger demands than those of the formal law. The Bible, as I have already implied, says things about non-Jews that do not sit well with the assumption that discriminatory laws represent an ideal. God’s mercy, as the Rambam himself notes in a related context (*Hilkhot Melakhim* 10:12), is upon all his creatures. Moab is destroyed for disrespectful treatment of the bones of the king of Edom (Amos 2:1). Jonah is sent to warn the inhabitants of Nineveh so that disaster may be averted. R. Moses of Coucy, who participated in the Paris disputation, required rectitude in dealing with gentiles to a degree that went beyond the letter of the law, appealing to the verse, “The remnant of Israel shall do no injustice and shall not speak what is false” (Zephaniah 3:13).²⁰ There is something disconcerting about using such language to describe supererogatory behavior, implying that the Torah itself may permit injustice and

falsehood. As in R. Ahron Soloveichik's understanding of *qiddush ha-Shem*, R. Moses' rhetoric strongly implies that the *demands* of God, not merely his preferences, go beyond the letter of the law.

Why then does the letter fall short of the ultimate will of the Lawgiver? Arguably, God wanted to give a people that He knew would be persecuted and beleaguered some leeway to respond to their oppressors in less than ideal fashion when circumstances genuinely demanded this. Perhaps He needed to reinforce a sense of special standing so that a positive Jewish self-image would be sufficiently strong to withstand the deflation of exile, subordination, and suffering.²¹ Perhaps He wanted to provide us with the test of developing our moral character in the absence of rigid commands.²² Perhaps some of these considerations played a role, perhaps none, perhaps all of them and many more. In the final analysis, we cannot know. But the assumption that we are in fact called upon to transcend the parameters of these laws is rooted in authorities of impeccable credentials.

This approach, however, is insufficient to allay some of the most insistent doubts since a number of the *halakhot* at issue, from returning a lost object to saving a life, appear to *prohibit* behavior that our instincts consider meritorious and even morally required. R. Yehiel's approach addressed this difficulty by narrowing the focus of these laws to ancient pagans, but his assertion was made under pressure, so that its sincerity, as I have already noted, is in question. We turn, then, to ha-Meiri. Like R. Yehiel, he does not ask that we go beyond the letter; rather, he redefines the letter. Unlike R. Yehiel, his sincerity is not—or should not be—in question. Our insight into his position has been markedly enhanced by the recent studies of Moshe Halbertal, but a clear sense of this

position can complicate as well as clarify the task of translating his attractive but highly problematic views into guideposts for contemporary *halakhah* and *hashkafah*.

Let me begin by devoting a single paragraph to a summary of these views. Contemporary Muslims and even Christians are not idolaters. In dealing with them, we need not be concerned with laws that are grounded in a fear of facilitating idolatry, so that we may do business with Christians on their holidays and even sell them items that might be used in their houses of worship. As to discrimination in civil and criminal law, distinctions between Jews and adherents of Christianity and Islam are virtually wiped out. The reason for this is that these distinctions were intended to apply to pagans who behave in an uncivilized fashion. But worshippers of the one cosmic Deity, even if they affirm some erroneous conceptions about Him, are impelled by their faith to establish moral societies. Such believers enjoy all the protections extended to Jews.

Even before Halbertal's study, I had understood the overall difference between ha-Meiri's discussion of laws regarding idolatry and his treatment of discriminatory legislation. I had, however, regarded the distinction between civilized and uncivilized societies as the key to the abolition of civil and criminal discrimination and did not see why ha-Meiri occasionally blurred the issue by mentioning *avodah zarah* in this connection. For me, then, the key contribution of Halbertal's analysis is his demonstration, based largely on philosophical sources, that ha-Meiri's work must be seen within a framework that linked religion with an ordered, ethical society. Worshippers of a multiplicity of deities are effectively people without religion; worshippers of a cosmic Deity, who fear His intervention and cannot hide from Him, are "people of religion"

(*ba'alei dat*), or, in ha-Meiri's still more famous phrase, "nations bound by the ways of religions."²³

To help us decide how to respond to this position, we must take the analysis a bit further. The most disconcerting element of ha-Meiri's stance is his apparent view that Christian worship is not *avodah zarah* at all. Since no other medieval halakhist ever said this, and it seems almost impossible to defend, I resisted this understanding for many years. In a recent treatment of the laws of *avodah zarah*, Rabbi Yehudah Herzl Henkin²⁴ affirmed that ha-Meiri would certainly not have said that one who actually bows to an icon of Jesus has not committed *avodah zarah*. When I first read that assertion, I answered amen despite the fact that the concrete evidence seemed very weak. In the oral version of my paper on Jacob Katz delivered in the Spring of 2000, I was still saying that I could not overcome my instinct that ha-Meiri would not go so far as to deny that such an act is *avodah zarah*. Nonetheless, after much soul-searching, I have come to believe that I was probably wrong.

My own view is that Christianity is non-pagan *avodah zarah* in a monotheistic mode, and I used to attribute this view to ha-Meiri. When I initially read Rabbi Henkin's analysis, I was very pleased to see that he understood ha-Meiri precisely in this manner and appeared to consider the position eminently defensible. But even such *avodah zarah*—what a critic of mine in a private message described as *avodah zarah* light—remains forbidden to both Jews and gentiles. I cannot see how to reconcile the view that Christianity is *avodah zarah* even in a limited, technical sense with ha-Meiri's rulings with respect to the laws relating to Christian ritual, for example, that one can do business with Christians on their holidays because what they do in their houses of worship is not

avodah zarah, and that one who is not a *baal nefesh* can sell them objects that may be used in their religious services because the remnants of idolatry survive only in a few far away places.²⁵ Unlike *tosafot*, ha-Meiri unambiguously means such assertions as a fundamental assessment of Christian practice

One can turn in desperation to *shinuyei dehikei*. Perhaps ha-Meiri believed that the relevant prohibitions, which are for the most part *mi-derabbanan*, were intended to apply only to the standard, pagan form of *avodah zarah*. In other words, it is permissible to consummate a business deal that may well cause a gentile to engage in technical *avodah zarah* as long as it is not of the pagan variety. This is remotely possible, but one searches in vain in *Bet ha-Behirah to Massekhet Avodah Zarah* for any hint of such a distinction.²⁶ And then there is Rabbi J. David Bleich's suggestion that ha-Meiri believed that his Christian contemporaries were adherents of a heresy that was arguably not *avodah zarah*, while Catholicism survived somewhere on the remote periphery.²⁷ I am now more sympathetic to the motivation that impelled Rabbi Bleich to put forth this desperate suggestion, but as a historical proposition it is virtually impossible to defend.

We inevitably arrive, then, at the seductive temptation to solve this problem by suggesting that ha-Meiri regarded Christian worship as *avodah zarah* for Jews but not for Christians. But this distinction, as I have already noted, rests on an almost certainly erroneous understanding of a *tosafot*, and I know of no medieval authority who made such an assertion. To make matters worse, a remarkable passage in ha-Meiri underscored by Katz maintains that the rabbinic category of "heretic" (*min*) applies to a Jew who has lost faith in Judaism but has not embraced another religion. Once he joins one of the other genuine religions, clearly including Christianity, he becomes a man of religion and

enjoys all the protections granted to such a man.²⁸ Since these protections apparently flow from adherence to non-idolatrous faiths, it seems to follow that even a Jew who engages in Christian worship does not commit *avodah zarah*.

The mind boggles at such an assertion. To the best of my knowledge, no halakhist of stature before or after ha-Meiri ever said such a thing.²⁹ I do not believe that any later *poskim*, even those twentieth-century authorities who said that we should rule in accordance with ha-Meiri, meant to endorse this understanding of his position. But I am afraid that I no longer resist the conclusion that this is what he maintained. If this is so—and I still hope I can be convinced that it is not—then the decision to “*pasken* like the Meiri” is greatly complicated. Authorities like Rabbi Jehiel Weinberg affirmed their support of ha-Meiri’s position³⁰ despite the fact that doing so violates the usual rules of *psak*. There is little doubt that they did so because their moral sense told them that his position yields results that accord most closely with the deepest values of the Torah. It is eminently clear by now that for whatever my opinion is worth, this is my instinct as well. But such a ruling, if described simply as the view of ha-Meiri, may now collide with another value that goes to the core of Judaism—safeguarding our resistance to *avodah zarah*.

In *The Rebbe the Messiah and the Scandal of Orthodox Indifference*, I have suggested that leaving aside Maimonides’ atypical case of “the root form of *avodah zarah*” (*Hilkhos Avodah Zarah* 1:1), a serviceable definition of this cardinal sin is “the formal recognition or worship as God of an entity that is in fact not God.” As I understand the *tosafot* about associating God with something else, even worshipping the Creator with the understanding that one of his aspects is fully manifested in Jesus of

Nazareth crosses the line, and worshipping Jesus himself with this understanding surely does.³¹ If ha-Meiri thought otherwise, his view contradicts a universal Jewish consensus and imperils resistance to Christianity.

Indeed, in our own orphaned generation, it imperils even more than that. Neither ha-Meiri nor any other *rishon* could have imagined that a generation would arise in which Torah observant Jews would assert that a recently deceased human being was literally nothing but God, that he was consequently omniscient, omnipotent, unbounded, incapable of sin, a “man-God,” that when you speak to him you speak to God, that it is permissible to invoke his aid and even bow to him with this understanding, and that his apparent death was illusory because an entity without limits cannot die. It is surely inconceivable that any *rishon* could have imagined that rabbinic authorities would treat Jews who affirm this set of beliefs as rabbis in good standing, support the institutions in which they teach, and see them as acceptable religious functionaries in every respect. The awareness that *avodah zarah* can exist in a monotheistic mode has never been more important.³²

If, then, the humane consequences of ha-Meiri’s position could be achieved only by compromising the definition of *avodah zarah*, I would—with a very heavy heart—reject them. But I do not think that this is necessary. In ha-Meiri’s own mind, civilized behavior was linked with belief in a cosmic Deity, and for him such a belief may have been a sufficient condition to eliminate *avodah zarah*. But the logic of his position that this belief generates a civilized society is quite independent of the theological-halakhic judgment regarding *avodah zarah*. Moreover, his argument in the sphere of

discriminatory law often appears rooted in the existence of a civilized society in and of itself.

What is arguably the crucial proof-text for ha-Meiri's position is the Talmudic statement that in certain areas—the immediate context is freedom of liability for damage caused by a Jew's animal—God has permitted gentile property to the Jews. Why? Because He saw that the nations did not observe the seven laws that he had imposed upon them (*Bava Qamma* 38a). Here is ha-Meiri's comment:

[The reason for this is] that because they do not care about the property of others they are punished so that they should not habituate themselves to cause damage. In light of what is stated in the *gemara* this applies only to the nations that are not bound by the ways of religions and laws, as it says in the *gemara*, “He saw that the Noahides did not observe the seven commandments that they had accepted, and so he permitted their property” so long as justice condemns them to this. Thus, as long as they observe the seven commandments, their law with respect to us is the same as our law with respect to them, and we do not favor ourselves. This, then, is the case *a fortiori* [*ve-‘attah ein tzarikh lomar she-ken*] with regard to the nations that are bound by the ways of religions and laws.

The key argument here is, I think, that they are punished for not caring about the property of others. Since ha-Meiri does not consider Christianity *avodah zarah*, he has no difficulty in coordinating this argument with the Talmudic assertion about the seven commandments, even though they include a prohibition against *avodah zarah*. Nevertheless, the essential logic of ha-Meiri's contention can clearly stand or fall on the

existence of a just legal system irrespective of theology. Once such a system is in place, discrimination is manifestly unjust.

Before we proceed, it is worth noting the superficially incomprehensible term “*a fortiori*,” whose implication was noticed by Halbertal.³³ The formula is perfectly understandable once we have absorbed the truly stunning extent of ha-Meiri’s egalitarian radicalism. In a number of instances, he extends a more advantageous legal status to the nations bound by the ways of religions than the Talmud does to the individual *ger toshav*. Thus, their lives should be saved even at the cost of desecrating the Sabbath, and a Jew who kills such a person is apparently subject to the same penalty as one who kills a Jew. An individual who accepts the Noahide laws is deserving of many forms of protection not granted to a pagan, but a member of an entire society of civilized people is elevated to full equality.

In sum, ha-Meiri’s essential position can be encapsulated in three basic propositions:

1. Discriminatory laws do not apply to decent societies.
2. Such societies exist only where there is a belief in a single cosmic Deity.
3. Such a belief places its adherents (whether Jews or gentiles) outside the category of worshippers of *avodah zarah* even if they make errors as far reaching as those of Christians in their understanding of that God.

While to the best of my knowledge no other Jewish authority of any standing ever endorsed proposition 3 (and I would like to believe that I am wrong about ha-Meiri as well), the position that many of these laws do not apply to Christians, let alone Muslims, was affirmed by mainstream authorities. The best known passage making such an

assertion is in R. Moses Rivkes's *Be'er ha-Golah* to *Hoshen Mishpat* 425:5, which points to Christian belief in creation, the exodus, and the revelation at Sinai, notes the remark originating in *tosafot* that the intention of Christians is to the Creator of heaven and earth, and makes the point that Jews live under Christian protection.

Jacob Katz asserts flatly that this passage affirms the position that Christians—I assume he means gentile Christians--do not worship *avodah zarah*. While this is possible, it is not necessarily the case. The very *tosafot* alluded to in *Be'er ha-Golah* makes clear that even though a Christian who says “God” intends to refer to the Creator of heaven and earth, the name “Jesus” is the name of an *elohim aherim*, and, properly understood, the analysis there almost certainly assumes that if a Jew caused a Christian to worship Jesus, he would violate the prohibition against causing someone to sin. The sin in question, is, of course, *avodah zarah*.

Nonetheless, the *tosafists* do recognize that this “intention to the Creator” sets Christianity apart from paganism. It is *avodah zarah*, but of a very special sort. To repeat my earlier formulation, it is non-pagan *avodah zarah* in a monotheistic mode. Thus, although a proper understanding of *tosafot* does not establish a two-tier system defining *avodah zarah* differently for Jews and gentiles, it does draw a deep distinction between Christianity and standard expressions of *avodah zarah*. Moreover, with respect to the larger, crucial question of whether or not “*avodah zarah* light” is a coherent category in Judaism, even the erroneous understanding that the *tosafists* exempted Christians from the prohibition against *shittuf* has great relevance. Authorities who attributed this view to *tosafot* held the position that a theology called Christianity exists in which an act that would be unambiguous *avodah zarah* if performed by a Jew is

permissible if performed by a gentile. Clearly their instinct did not rebel against the principle that there can be a form of *avodah zarah* that is less serious than the norm. If we look at the criteria for the application of discriminatory legislation through a theological lens, this distinction may well be enough to exempt Christians from such discrimination. I am strongly inclined to think that this is precisely the position of the *Be'er ha-Golah*, though he would surely not have gone as far as ha-Meiri in the scope of the exemption.

In contemporary times, however, a question arises that was not addressed by these earlier solutions. What of decent secular societies and decent secular individuals who live in them? Here we confront ha-Meiri's second proposition as well as the formulation in *Be'er ha-Golah*, which propose an inextricable link between moral behavior and belief in a single cosmic God. But if the ethical argument in proposition one is self-sufficient, then empirical evidence of a just, enforced, largely obeyed legal system should be sufficient to trigger exemption from discriminatory laws without regard to religious underpinnings. By removing such underpinnings, we eliminate the divine dimension, but in a Christian environment, we also eliminate *avodah zarah*. It is at least slightly strange to say, "We will treat you equally provided that you do not abandon your (admittedly exceptional) *avodah zarah* for secularism."

In a single sentence in the middle of a lengthy footnote, Halbertal makes a remark that bears on this issue. Rabbi Meir ben Shimon of Narbonne had proposed a contrast between *benei dat* and philosophers who deny divine providence and consequently allow themselves all sorts of immoral behavior. Ha-Meiri, says Halbertal, draws the same contrast between *ba'alei dat* and early idolatrous nations, substituting the latter for R.

Meir's philosophers. The reason for this change is that "in [ha-Meiri's] opinion the philosopher recognizes that the masses require religion, while he himself is restrained by ethical requirements out of internal reasons rather than religiously generated fear."³⁴ This assertion, unsupported by any specific citation, is probably based on ha-Meiri's affinity to the medieval philosophers who held precisely this position. However, since Halbertal demonstrated in an earlier chapter that ha-Meiri espoused considerably more moderate, traditional views on related matters than a philosopher like Samuel ibn Tibbon, the assumption that he considered philosophers at least equivalent to *ba'alei dat* cannot be regarded as certain. He explicitly connects moral behavior with belief in a God who exercises providence, and his contrast with ancient idolaters rather than philosophers is necessitated by the Talmudic contexts that he addresses. Having said this, I am nonetheless inclined to think that Halbertal is probably correct; if so, then ha-Meiri himself actually maintained the view that I would like to tease out of his expressed position.

The view that gentile behavior rather than theology determines how Jews should treat them is at least implicit in a relatively recent English essay by R. Ahron Soloveichik. He argues that love of other Jews must be blind, but love of gentiles, which he sees as an obligation expressed in the Rabbinic principle called "love of people" (*ahavat ha-beriyot*),³⁵ is grounded in the intellect and varies with the degree to which gentiles lead moral lives and treat Jews decently. This position is spelled out more rigorously in his novellae to *Sefer ha-Madda*. Here he maintains that the discriminatory laws against non-Jews result only from their status as evildoers (their *shem rasha*). Non-Jews who behave righteously by following the six Noahide laws other than the

prohibition against *avodah zarah* are not considered evil as long as their theological error was inherited, as the Talmud suggests about pagans in the diaspora, from their parents and is thus considered inadvertent or even a result of compulsion. It is worth quoting more fully R. Jacob Emden's application of this talmudic dictum in a responsum to which R. Soloveichik alludes. "The Sages," says the responsum, "declared, 'The gentiles outside the Land of Israel are not worshippers of *avodah zarah*; rather, they follow the customs of their ancestors.' Therefore their blood is precious in our eyes and would remain so even if we were ruling over them so that they were conquered under our control in our own land. After all, the Sages said—even with respect to full fledged idolaters--that one does not lower them into a pit. How much more is this so in the diaspora where we take refuge under their protection; we are, then, obligated to protect them with all our ability and save them from death and from any loss or damage to the point where even guarding their money should be a labor of love."³⁶ Finally, Rabbi Soloveichik's invocation of ha-Meiri³⁷ in the course of his analysis clearly implies that he regards the latter's distinction between ancient idolaters and his Christian contemporaries as normative.³⁸

We return, then, to ha-Meiri. Regardless of whether or not he himself envisioned such a possibility, his analysis allows for the conclusion that an empirically observed social and legal system that follows norms of decent conduct is sufficient to propel a society into the category of civilized nations even if it is not technically bound by the ways of religions. I am acutely aware that such a conclusion requires at least two bold steps.

First, there is the decision to rule in accordance with ha-Meiri's basic position that nations bound by the ways of religions are exempted from discriminatory laws. This does not require that we go as far as ha-Meiri himself did by applying this principle even to some matters of ritual law³⁹ or denying that Christianity is *avodah zarah* at all. I have already noted that this step was taken by both Rabbis Weinberg and Soloveichik--and they were not alone. Rabbi Isaac Herzog indicated that one could legitimately rely upon ha-Meiri's view.⁴⁰ The elder Rav Kook wrote explicitly that "the correct position (*ha-iqqar*) is that of ha-Meiri that all nations bound by decent practices between man and his fellow man are considered as *gerim toshavim* with respect to all obligations involving human beings," and a similar approach was affirmed by Rabbi Samson Raphael Hirsch, Rabbi David Zvi Hoffmann, and Rabbi Hayyim David Halevi.⁴¹ The distinguished decisor R. Eliezer Waldenberg pointed to Ha-Meiri's position, denied the plausibility of the notion that he had constructed an entire approach out of fear of censorship and the desire for peace, and concluded that his position can serve us as "a paradigmatic source (*makor beit av*) as we come to consider these problems regarding the nations in our age."⁴² Finally, Rabbi Yosef Eliyahu Henkin wrote a remarkable essay asserting that Noahides are not commanded regarding *shittuf*, referring with approval to a strongly positive passage about non-Jews in *Tiferet Yisrael (Avot 3:14)*⁴³, wondering whether even those contemporary non-Jews who bow to images really worship them, insisting that the vast majority of today's gentiles are *gerei toshav*, a category that he says does not require a formal declaration before a court for most purposes, and arguing that both the judicial procedures and the punishments characterizing Noahide law are discretionary.⁴⁴ Beyond the fundamental endorsement of ha-Meiri's position, the link between civilized

status and theism would have to be severed. The motivation for these steps would lie, as I have already noted, in the *posek*'s belief that they best reflect the moral teachings of the Torah and hence the true will of God.

In certain circles, it has become fashionable to speak with disdain of ha-Meiri as a halakhic authority, sometimes, I am afraid, precisely in the context of his views about non-Jews. This assessment was not shared by the author of the *Shittah Mequbbezet*. In one of his responsa, R. Bezalel Ahkenazi vigorously dismissed a legal opinion because it disagreed with “the pillars of halakhic decision-making (*ammudei ha-hora'ah*): the Rif, the Rambam, the Ramah, the Rosh, and the Meiri.”⁴⁵ We need not apologize for accepting the judgment of Rabbis Hirsch, Hoffman, Kook, Herzog, Halevi, Weinberg, Waldenberg, Henkin and Soloveichik as the basis for endorsing the position of an authority included in such august company by a man who, to paraphrase the famous remark of Samuel, knew the pathways of the *rishonim* like those of his hometown.

The most intractable obligation to exercise intolerance remains the requirement to root out *avodah zarah* from the Land of Israel. As I understand ha-Meiri himself, he would permit even crucifixes worshipped by Jews to remain in their undisturbed churches in the heart of Jerusalem because Christian worship is simply not *avodah zarah*. For all my admitted desire to find grounds for tolerating Christianity in Israel, I am not willing to accept the position that such crucifixes are free of the taint of *avodah zarah*.⁴⁶ Rabbi Yehudah Herzl Henkin⁴⁷ suggests that our inability to uproot such *avodah zarah* at this time may well represent a providential act designed to postpone a potentially wrenching confrontation to the messianic age, when all the world will willingly abandon all forms of foreign worship.

May I dare, in the spirit of ha-Meiri and *Be'er ha-Golah*, to broach the possibility that the biblical requirement to eliminate *avodah zarah* from Israel applies only to the forms of *avodah zarah* that prevailed in antiquity? The Torah regularly connects the uprooting of paganism to the abominable acts associated with it. In our time, we find ourselves allied with Christians in a struggle against precisely the forms of immorality that ancient paganism fostered. Even Traditionalist Orthodox groups that avoid any formal dialogue with Christian churches engage in cooperative pursuits in the interest of protecting “family values” in legislation and public policy. Perhaps, just perhaps, the uprooting of *such avodah zarah* in pre-messianic times is not required by the Torah. There is no practical halakhic consequence to this suggestion since everyone agrees that the need to maintain harmonious, secure relations with the nations of the world rules out any effort to enforce a ban on *avodah zarah* in Israel. Nevertheless, the matter is of great relevance in the realm of *hashkafah*, and I can console myself that the suggestion is no more radical than the actual position of ha-Meiri. Still, I am well aware that no *posek* has ever said that any form of technical *avodah zarah* may theoretically be allowed in Israel, and I raise the matter only in the context of *derosh ve-qabbel sekhar* (though many readers will surely have serious doubts about the last two words).

I have left this last paragraph as I presented it to the Orthodox Forum so that I can express my full measure of satisfaction upon discovering that the final sentence is incorrect. After reading the typescript, Avie Walfish pointed me to a footnote that I had missed in Rabbi Herzog’s article dealing with the standing of non-Jews in a sovereign Jewish state. “Only full-fledged idolaters (*ovdei avodah zarah gemurim*),” suggests Rabbi Herzog, “pursue a form of worship bound up with licentiousness and sorcery and

all forms of impurity, and it is only about them that the Torah said, '[They shall not remain in your land] lest they cause you to sin against Me' (Exod. 23.33)."⁴⁸

Finally, just the briefest of observations about the issue of non-Jews' eligibility for a portion in the world to come. It is very well known that the Rambam, based on a passage in *Mishnat Rabbi Eliezer*, requires observance of the seven Noahide commandments out of a belief that they were revealed by God. It is reasonably well known that he sets forth a more lenient criterion in a letter (whose authenticity, to be sure, has not gone unchallenged) to R. Hasdai ha-Levi of Alexandria, where he asserts that what matters is the intention of the heart, so that a gentile who has achieved knowledge of God and developed good character traits will enter the world to come.⁴⁹ Since it obviously cannot be taken for granted that a non-Jew who meets these criteria will automatically observe the prohibition against *ever min ha-hai* in all its details, it appears to follow that a Noahide may not have to receive a perfect score in observing his commandments to be eligible for eternal life.

On this point, there is an extraordinarily important and little known observation in the responsum of R. Jacob Emden to which I have already alluded:

If [Noahides] violate their commandments they are punished, and ultimately they achieve restoration (*yesh lahem tikkun*) after they have received their punishment; they have a dwelling place and portion in the world to come in accordance with what is appropriate for them. The Sages have said, 'The pious of the nations of the world have a portion in the world to come.' They did not say, "The sinners of the nations of the world are judged for untold generations.' Such an eternal punishment

would apply only to those who sin with a transgression of the body,⁵⁰ as is the case with respect to Jews as well, but other sinners, Jews and gentiles, are not punished forever but, rather, achieve a restored state.⁵¹

Since, as we have seen earlier, R Emden is explicitly discussing gentiles who engage in what would be culpable *avodah zarah* if not for the fact that they are following their ancestors' customs, it is clear that such behavior does not exclude them from the category of those who ultimately achieve a portion in the world to come. All this is apparently so despite the fact that R.Emden, in response to an inquiry from Mendelssohn, famously defended the Rambam's view that the salvation of non-Jews depends upon their acknowledgement of the source of the Noahide covenant in divine revelation.

In his classic commentary to the Mishnah, R. Israel Lifshitz unequivocally affirms that Christians have a portion in the world to come. With specific reference to Johannes Reuchlin, he argues that that it is unimaginable that God would not reward a man who struggled successfully to defend the Talmud and was consequently driven to an embittered death by antisemites. Elsewhere in the commentary, he insists that even Gentiles who are less than fully righteous (*beinonim*) have a portion in the world to come, since the mishnah specifies that Balaam, who is, of course, an exemplar of extraordinary evil, is denied such a portion.⁵²

For the Rambam himself, the criterion of knowledge of God is, for philosophical reasons, indispensable for ultimate salvation. Only one who has reached a minimum level of the proper apprehension of God can connect to the spiritual realm to the degree necessary for immortality.⁵³ Thus, it is unlikely that the Rambam would have affirmed that one with a conception of God as erroneous as that of Christianity could

attain eternal life. However, I think it is fair to say that a large majority of Jews, including major rabbinic authorities, did not and do not share the technical, almost mechanical understanding of immortality characteristic of medieval philosophers. And so we can once again allow ourselves to ask whether a Christian who has perfected his moral traits—a Holocaust rescuer, to return to the most powerful example—might not enter the world to come. How can we not hope that the answer is yes?

Let me conclude by addressing a question that lurks beneath the surface of this entire discussion. If we choose to follow a minority position, or even carve out a new variant of that position, because we feel a powerful moral imperative to do so, are we not running the risk of suggesting that the majority of great Jewish authorities through the ages suffered from a severe moral failing? For two complementary reasons, I do not believe that this is the case. First, people who lived in a society that attempted—with considerable success—to degrade and humiliate them would have understandably felt little motivation to qualify and reinterpret explicit directives in the Talmud. When a Holocaust survivor says something sharply pejorative about all *goyim*, I react very differently than I do when an American born Jew below the age of fifty says the same thing. There is nothing remarkable in the *rishonim*'s acceptance of discriminatory laws; what is remarkable is ha-Meiri's striking reassessment.

Second, there is the fundamental point that *halakhah* is ultimately rooted in the word of God. With varying degrees of success, we all set aside moral qualms with respect to absolutely unambiguous divine directives that appear problematic to us. In the context of authentic Judaism, submission to the divine will is paramount, and suppression of some humane instincts in the face of clearcut *halakhah* may be necessary. To ascribe

moral failings to the rabbinic authorities of an oppressed people for failure to reinterpret the straightforward meaning of sacred texts discriminating against their persecutors is inappropriate, unfair, insensitive, and incorrect. But this does not mean that we must suppress our own moral instincts when we honestly see them as consistent with, even generated by, the values and teachings of the Torah writ large. We have *'al mi lismokh*, and our religiously informed ethical instincts have a role to play as we examine text and tradition to reach a conception of our relationship to non-Jews that will honor the universal mission assigned to the children of Abraham.⁵⁴

¹ Rashi's famous comment on Genesis 6:13, paraphrasing R. Yohanan's observation in *Sanhedrin 105a*.

² I refer, of course, to the contrast between Genesis 22 and Genesis 18:23-33.

³ I compressed the essential argument of the last four paragraphs into one in my contribution to a symposium entitled "What Do American Jews Believe?" in *Commentary* 102:2 (August, 1996): 20. In the discussion of this paper at the Orthodox Forum, Rabbis Norman Lamm and Shalom Carmy noted Buber's similar analysis, and Rabbi Carmy pointed me to R. Ovadiah Seforno's introduction to his commentary on the Torah, where he summarizes the unfolding of the divine plan in Genesis as one of repeated efforts to perfect the human species as a whole ultimately culminating in the need to choose a single *hasid* among the entire species to fulfill the divine plan. See his introduction in *Torat Hayyim* (Jerusalem, 1986), p.23.

⁴ When values close to the heart of the contemporary liberal ethos clash with unfettered moral relativism, limits are sometimes rediscovered. Thus, clitoridectomy is often seen as beyond the pale of even an expansive respect for cultural difference.

⁵ *Hilkhot Avot ha-Tum'ah* 2:10 (omitted for obvious reasons in some printings).

⁶ Ezek. 23:20. See *Yevamot* 98a; *Tosafot Ketubbot* 3b, s.v. *lidrosh*. Evidence that the Talmud itself did not apply the principle that "their issue is the issue of horses" to sexual relations with a non-Jew was provided by Rivam in his refutation (*ibid.*) of Rabbenu Tam's position.

⁷ See *Tosafot Yevamot* 61a, s.v. *ve-ein*. For the wide spectrum of interpretations suggested through the ages regarding this talmudic passage, see Avi Sagi, *Yahadut: Bein Dat le-Musar* (Tel Aviv, 1998), pp. 163-181. Michael Breitenstein, in a paper that he submitted to me in a course at Yeshiva University's Bernard Revel Graduate School, called my attention to the remarkable discussion in Rabbi Israel Lipschutz, *Tiferet Yisrael to Avot* 3:14 (*Boaz* #1), which argues that Jews are like Adam because their understanding was given to them directly by God; the other nations, unlike Adam, achieved their moral and intellectual insights through their own efforts. Consequently, the appellation "Adam" is "not such a term of praise" for the Jews.

⁸ *Avodah Zarah* 22b.

⁹ For a sustained argument that the Rambam denied an essentialist distinction between Jews and non-Jews, see Menachem Kellner, *Maimonides on Judaism and the Jewish People* (Albany, 1991). He has since reinforced this argument in a series of articles and plans a greatly expanded Hebrew version of the book. See the references in his "Maimonides on the Nature of Ritual Purity and Impurity," *Daat Jubilee Volume* (2003): II, n. 5.

¹⁰ For a brief discussion of Halevi's ethnocentric position in its cultural context, see my remarks in Gerald Blidstein, David Berger, Sid Z. Leiman, and Aharon Lichtenstein, *Judaism's Encounter with Other Cultures: Rejection or Integration?*, ed. by Jacob J. Schacter, pp. 77-79, and the references in notes 31 and 32.

¹¹ For a succinct summary, see Aharon Kleinberger, *Ha-Mahashavah ha-Pedagogit shel ha-Maharal Mi-Prag* (Jerusalem, 1962), pp. 37-42.

¹² *Tanya* 1:1, end. See Adin Steinsaltz, *Be'ur Tanya*, vol. 1 (Jerusalem, 1989), pp. 62-64.

¹³ On the general question of ethics and law in Judaism, see R. Aharon Lichtenstein's celebrated essay, "Does Jewish Tradition Recognize an Ethic Independent of Halakhah?" in *Modern Jewish Ethics: Theory and Practice* (1972), pp. 62-88, reprinted in M. Kellner, ed., *Contemporary Jewish Ethics* (New York, 1978), pp. 102-123. See too Sagi, *Yahadut: Bein Dat le-Musar* (above, n. 7). Eugene Korn's "Tselem Elokim and the Dialectic of Jewish Morality," *Tradition* 31:2 (Winter, 1997): 5-30 directly addresses issues central to the concerns of this paper, as does R. Yoel Schwartz, *Am Segullah: Yalqut be-Inyenei Ma'alat Am Yisrael ve-Nizhiyyuto*, chapter 3, pp. 43-62. I am grateful to Rabbi Yona Reiss for bringing Rabbi Schwartz's book to my attention.

¹⁴ Marc B. Shapiro, "Scholars and Friends: Rabbi Jehiel Jacob Weinberg and Professor Samuel Atlas," *The Torah u-Madda Journal* 7 (1997): 105-121. Note too Gerald Blidstein's report that although Rabbi Joseph B. Soloveitchik did not hesitate to rule that as a practical matter one is obligated to save the life of a non-Jew on the Sabbath, he acknowledged his moral unease with the theoretical prohibition. See *Gilyon* (Heshvan 5754 [1993]): 25, cited in Shapiro, *Between the Yeshiva World and Modern Orthodoxy: The Life and Works of Rabbi Jehiel Jacob Weinberg, 1884-1966* (London and Portland, Oregon, 1999), pp. 182-183, n. 47.

¹⁵ This final sentence along with the specific formulations of the alternative questions that R. Shimon ben Shetah might have asked are mine, not Rabbi Soloveichik's. I think, however, that they capture the thrust of his presentation. His views on some of the key issues were later committed to writing in *Sefer Parah Matteh Aharon: Hiddushim al ha-Rambam Sefer Madda* (1997), pp. 138-153. I thank Rabbis Jeremy Wieder and Meir Soloveichik for urging me to read that passage, to which I shall allude further in the course of this discussion. For a vigorous expression of the position that the *qiddush ha-Shem* engendered by returning a lost object to a non-Jew emerges not out of a deception as to what the Torah requires but out of its deepest values, see Schwartz, *Am Segullah*, p. 55. Indeed, he writes, the return of such an object is a full-fledged obligation rooted in the requirement of walking in the ways of God (pp. 60-61). For a defense of the absence of such an obligation, see Michael Broyde and Michael Hecht, "The Gentile and Returning Lost Property According to Jewish Law: A Theory of Reciprocity," *Jewish Law Annual* 13 (2000): 31-45.

¹⁶ "Jacob Katz on Jews and Christians in the Middle Ages," in Jay M. Harris, ed., *The Pride of Jacob: Essays on Jacob Katz and his Work* (Cambridge, Mass., 2002), pp. 41-63.

¹⁷ *Sanhedrin* 63b, s.v. *asur*. I have discussed the various interpretations of this *tosafot* in Appendix III of *The Rebbe, the Messiah and the Scandal of Orthodox Indifference* (London and Portland, Oregon, 2001), pp. 175-177.

¹⁸ *Exclusiveness and Tolerance* (London, 1961), p. 113.

¹⁹ "Christians, Gentiles, and the Talmud: A Fourteenth-Century Jewish Response to the Attack on Rabbinic Judaism," in *Religionsgespräche im Mittelalter*, ed. by Bernard Lewis and Friedrich Niewöhner, Wiesbaden, 1992, p. 130.

²⁰ See Katz's discussion in *Exclusiveness and Tolerance*, p. 104. See too Judah Galinsky's Yeshiva University Master's thesis, *R. Moshe mi-Coucy ke-Hasid, Darshan u-Pulmesan: Hebbetim me-Olam ha-Mahshavti u-Pe'iluto ha-Zibburit* (New York, 1993).

²¹ I have addressed some aspects of the complex question of self-image and image of the other in the medieval Jewish-Christian relationship in "Al Tadmitem ve-Goram shel ha-Goyim be-Sifrut ha-Pulmus ha-Ashkenazit," in *Yehudim mul ha-Zelav*, ed. by Yom Tov Assis et al (Jerusalem, 2000), pp. 74-91. The article also analyzes views of the eschatological fate of gentile nations, a much-debated issue in recent scholarship that I have not considered here.

²² See Walter Wurzburger, *Ethics of Responsibility: Pluralistic Approaches to Covenantal Ethics* (Philadelphia, 1994), and Yitzchak Blau, "The Implications of a Jewish Virtue Ethic," *The Torah u-Madda Journal* 9 (2000): 19-41. Cf. Schwartz's remarks in *Am Segullah*, pp. 58-60.

²³ Halbertal argued this position first in "R. Menahem ha-Meiri: Bein Torah le-Hokhmah," *Tarbiz* 63 (1994): 63-118 and again in his *Bein Torah le-Hokhmah: Rabbi Menahem ha-Meiri u-Ba'alei ha-Halakhah ha-Maimunim bi-Provence* (Jerusalem, 2000). An English translation of much of the relevant chapter appeared in the on-line *Edah Journal* 1 (2000). This understanding of ha-Meiri's view of the relationship between the theological and ethical realms also appears, perhaps independently, perhaps in consequence of Halbertal's *Tarbiz* article, in a 1995 responsum by R. Yehudah Herzl Henkin, *Shu"t Benei Banim* 3 (1997): 121.

²⁴ *Ibid.*

²⁵ A. Sofer, ed., *Beit ha-Behirah le-Massekhet Avodah Zarah* (Jerusalem, 1964), pp. 4, 9, 32, 189. See Halbertal, *Bein Torah le-Hokhmah*, pp. 84-86.

²⁶ I re-read the relevant material with the wistful hope that ha-Meiri might make consistent use of the term *avodat elilim* rather than *avodah zarah* in passages where he denies the persistence of such practices. Disappointingly, the two terms appear to be used interchangeably.

²⁷ "Divine Unity in Maimonides, the Tosafists and Meiri," in Lenn Evan Goodman, ed., *Neoplatonism and Jewish Thought* (Albany, NY, 1992), pp. 237-253.

²⁸ A. Sofer, ed., *Bet ha-Behirah le-Massekhet Horayot ve-Eduyot* (Jerusalem, 1958), p. 275. See Katz, *Exclusiveness and Tolerance*, pp. 123-124 and Halbertal, *Bein Torah le-Hokhmah*, p. 101-102.

²⁹ This is not to say that no other Jews ever expressed such views. See Ishmael Hanina ben Mordekhai ha-Rofe, *Sheva Haqiroth* (Husiatyn, 1903), pp. 2ff=*Ha-Shahar* 2, pp. 17-19, whose comments were made under Christian interrogation in sixteenth-century Italy. Compare the similar, uncoerced argument of Solomon Modena, another sixteenth-century Italian Jew, published and discussed in David Ruderman, "A Jewish Apologetic Treatise from Sixteenth-Century Bologna," *Hebrew Union College Annual* 50 (1979): 253-276. I elaborated very slightly on these sources in *The Rebbe*, pp. 160-161, n. 2.

³⁰ Shapiro, "Scholars and Friends," p. 118. See too Shapiro's *Between the Yeshiva World and Modern Orthodoxy*, p. 183.

³¹ See Appendix II ("The Parameters of *Avodah Zarah*") and Appendix III ("The *Tosafot* on Association [*Shittuf*])," in *The Rebbe*, pp. 159-177.

³² Some measure of consolation can be derived from the fact that one reason for the failure to exclude such believers from Orthodox Judaism is the conviction that these views are held by less than a handful of marginal, even unbalanced individuals. This conviction results from behavior not very different from that of Galileo's famous visitor-- a steadfast refusal to look at manifest evidence, in this instance evidence that the theology in question is affirmed and disseminated by prominent rabbis serving in the central institutions of Chabad-Lubavitch and has penetrated deeply into the lay community. I am afraid, however, that even when observers reluctantly conclude that they are not dealing with a figment of my imagination, the effective legitimation of the believers remains intact.

³³ *Bein Torah le-Hokhmah*, p. 87, n. 13.

³⁴ *Bein Torah le-Hokhmah*, p. 101, n.35.

³⁵ R. Soloveichik (*Logic of the Heart, Logic of the Mind*, 1992, p. 70) cites R. Hayyim Vital's affirmation of an obligation to love even gentiles, as does Schwartz, *Am Segullah*, p. 62. Yitzchak Blau has provided a list of five additional authorities who maintain this position; see Blau, "The Implications of a Jewish Virtue Ethic," p. 27.

³⁶ *Sefer She'elat Yavetz* (Lemberg, 1884), responsum 41, p. 36b, column 1. For a discussion of some of the relevant issues and sources, see R. Ovadiah Yosef's responsum encouraging Jews to pray for the recovery of sick gentiles: *She'elot u-Teshuvot Yehavveh Da'at* (Jerusalem, 1976/7), vol. 6, # 60.

³⁷ Pp. 139, 151.

³⁸ Rabbi Soloveichik (p. 140) goes further by inferring the position that he advocates from *Tosafot Hullin* 13b, s.v. *nokhrim*. (Because of a typographical error, his first reference to the *tosafot* cites *Hullin* 10 rather than 13.) In this instance, his deduction seems to go beyond the evidence.

³⁹ I did not address these examples in my discussion because discrimination in ritual law is not my major concern. For details of ha-Meiri's almost incredible (and to some observers who believe these passages are forgeries, fully incredible) application of his category to matters of *yihus* and preparing food on holidays, see Halbertal's discussion, pp. 92-96.

⁴⁰ See R. Yitzhak Eizik ha-Levi Herzog, *Tehuqah le-Yisrael al pi ha-Torah*, vol. 3, (Jerusalem, 1989), p. 278. See too Itamar Warhaftig, "Rabbi Herzog's Approach to Modernity," in Moshe Sokol, ed., *Engaging Modernity: Rabbinic Leaders and the Challenge of the Twentieth Century* (Northvale, NJ and Jerusalem, 1997), pp. 288-289. (Warhaftig's translation does not properly reproduce the clause "Gam le-aharei she-anu meqabbelim et divrei ha-Meiri ha-yedu'im al ha-ummot ha-gedurot be-darkhei ha-datot," so that the reader is puzzled by his assertion that R. Herzog relies on ha-Meiri's position.) In addition to R. Ahron Soloveichik's discussion in the works cited in notes 15 and 35, see his "Be-Inyan Bikkur Holim u-Refuah," *Beit Yitzhak* 22 (1990): 218-248, which was brought to my attention by Jeffrey Hochberg.

⁴¹ Rabbi Avraham Yitzhak ha-Kohen Kook, *Iggerot Ra'yah*, vol. 1 (Jerusalem, 1961), p. 99; I am grateful to Rabbi Dov Linzer and Prof. Marc Shapiro for calling my attention to this passage. Prof. Shapiro also alerted me to the comments by Rabbis Hirsch, Hoffmann, and Halevi. See Rabbi Samson Raphael Hirsch, *Judaism Eternal*, vol. 2

(London, 1956), pp. 167ff.; Rabbi David Zvi Hoffmann, *Der Shulchan-Aruch und die Rabbinen ueber das Verhaeltnis der Juden zu Andersglaebigen* (Berlin, 1894); and Rabbi Hayyim David Halevi, *Aseh Lekha Rav*, vol. 9 (Tel Aviv 1989), #32. See too vol. 8 (Tel Aviv, 1988), #68. (I had long been familiar with Hoffmann's position—see n. 4 of my article in the Katz volume [above, n. 16]—but had neglected to cite it in the initial version of this paper.) In the last three cases, the exclusion or near exclusion of Christianity from the category of *avodah zarah* goes beyond the point that I think the evidence warrants, but the substantive position of these authorities significantly augments the list of rabbinic figures who insisted upon equal treatment for ethical non-Jews. R. Hirsch does not explicitly cite ha-Meiri, but, in sweeping terms clearly intended to include Christians, he writes of our obligation to treat non-Jews who observe their commandments exactly as we would treat Jews.

⁴² Introductory letter to Hayyim David Halevi, *Bein Yisrael la-Ammim* (Jerusalem, 1954), pp.16-17. Here again I am indebted to Marc Shapiro for the reference.

⁴³ See above, n. 7 and the text below at n. 52.

⁴⁴ He remarks—without specifying examples—that there are many proofs of this position in the Bible. When a twentieth-century authority proves a point about Jewish law directly from the Bible, it is clear that unusual concerns are at work. R. Henkin goes on to assert that a Talmudic term describing a harsh form of indirect execution (*kippah*) really refers to ordinary imprisonment; however, it comes with an option allowing the court—under unusual circumstances—to impose the more extreme measure described in the Talmud. Those who interpret the matter otherwise speak evil (*dovrim sarah*) of the Sages. Similarly, the law that a non-Jew can be convicted in a judicial process involving just one witness and one judge does not establish a norm or an ideal, merely a permissible procedure. The proper approach, says Rabbi Henkin, is that of the United States, where the judgment of many individuals (presumably jurors) is required to impose punishments. See Henkin, “Qetz ha-Yamin,” *Ha-Darom* 10 (Elul, 5719):5-9.

⁴⁵ Yisrael Feldman, ed., *She'elot u-Teshuvot Rabbenu Bezalel Ashkenazi* (1955), #6, p. 22a, col. 1.

⁴⁶ I doubt that we are helped very much even by the view that Christianity is permitted to gentiles. There are, after all, Jewish converts to Christianity in Israel, and they too kneel before Israeli crucifixes in Israeli churches.

⁴⁷ Pp. 131-132.

⁴⁸ “Zekhuyot ha-Mi'utim le-fi ha-Halakhah,” *Tehumin* 2 (1981): 174, n. 9.

⁴⁹ *Kovetz Teshuvot ha-Rambam ve-Iggerotav* II, pp. 23b-24a; Yitzhak Shailat, *Iggerot ha-Rambam* (Jerusalem, 1987), vol. 2, p. 681. Both Rabbi Soloveichik (*Parah Matteh Aharon*, p. 153) and Rabbi Schwartz (*Am Segullah*, p. 47) made reference to this letter. See Shailat's objections to its authenticity in his edition, pp. 673-676.

⁵⁰ *Tosafot* understands the talmudic formulation defining *posh'ei ummot ha-olam begufan* as those who transgress “ba-averah” to refer to sexual sin. See *Rosh ha-Shanah* 17a.

⁵¹ *Sefer She'elat Yavetz*, responsum 41, p. 36b, column 1.

⁵² *Tiferet Yisrael to Avot* 3:14 (*Boaz* #1) and *Sanhedrin* 10:1 (*Yakhin* #2), brought to my attention by Michael Breitstein.

⁵³ Cf. Arthur Hyman's argument that this is why the Rambam requires an understanding of the non-corporeal nature of God as a *sine qua non* for entry into the world to come; see

“Maimonides’ ‘Thirteen Principles’,” in Alexander Altmann, ed., *Jewish Medieval and Renaissance Studies* (Cambridge, Mass., 1967), 141-142.

⁵⁴ I complete the written version of this paper during a period of horrific crimes committed against the Jewish people—and the world at large--by the bearers of a monotheistic culture. On the one hand, these events make it difficult to avoid a reassessment of the relationship between monotheism and an ethical way of life, though we must keep in mind that the medieval Christians whom ha-Meiri declared to be bound by the ways of religion hardly represented an ideal society. On the other hand, the evident disregard for the most elementary rights of the Other that arouses our instinctive revulsion as we witness these terrible events should inspire us to ever greater sensitivity in our own understanding of the ethical obligations imposed by a faith whose ways are the ways of pleasantness and all of whose pathways are peace.

Finally, let me note with gratitude that R. Aharon Lichtenstein, while not addressing any specific argument in this article (and asserting in fact that he feels that “the uniqueness of *kedushat Yisrael* is somewhat diluted”), affirmed among other very kind comments that its “quest for the resolution of a difficult ethical and religious issue” constitutes “not an exercise in ‘honest doubt’ but rather a manifestation of *avodat Hashem*.”