

## BOOK REVIEWS

*Political Concepts in Maimonidean Halakha* (Hebrew) by GERALD J. BLIDSTEIN. Bar Ilan University, 1983, 283 pp.

*Reviewed by*  
Aaron Kirschenbaum

Professor Gerald Blidstein of the Ben Gurion University of the Negev has presented us with a badly needed study of a major area of thought of one of the most important intellectual figures in Jewish history. Indeed it comes as a surprise that so little has been written on the political theory of Maimonides. The following represent some of the classical questions of political philosophy to which Maimonides addressed himself:

The theory of political organization: what is the Halakhah's attitude to monarchy?

The source of political authority: how do the rules concerning the investing of a king reflect the sources of his authority?

The relationship of the ruled to the ruler: what are the standards of obedience and the justifications for rebellion?

The nature of the political hierarchies: what are the relationships, the interlacings and the relative powers of the king, the exilarch (Rosh ha-Gola) and the head of the Sanhedrin (Nasi)?

The sovereign and the law: is the king above the law, or subject to it? What are the parameters of his administration of the law?

Government and the laws: what are the relative powers of the monarch and of the courts (*bet din*) in the creation of law, its execution, and its adjudication?

Religion and authority: what, if any, are the sacral elements of kingship?

Utopian law and politics: what is the ideal state as foreseen for messianic times?

Each and every Maimonides pas

sage—usually found in but not limited to the Mishneh Torah—is subjected to very careful scrutiny: it is traced and compared with its talmudic source; the talmudic source is analyzed in the light of all its possible interpretations (often these are to be found in the works of Geonim and other Rishonim); the specific interpretation to be inferred from the Maimonidean passage is then examined for its philosophical implications.

We have here careful scholarship regarding Maimonides specifically and Halakhah generally on questions of the greatest constitutional significance. The various disciplines of Judaic studies are invoked in order to shed light on the question at hand: biblical exegesis and biblical history, talmudic, midrashic and rabbinic literature, commentaries, codes, and responsa; the history and literature of the Geonim; Islamic civilization—life and law; Jewish philosophy; and general philosophy and political theory.

An interesting observation is noted: where the Rabbis of the Talmud are silent, Maimonides makes extensive use of biblical narrative, often in a highly original fashion. Indeed, Scripture—and not necessarily according to rabbinic interpretation—serves Maimonides as a major source of political thought. Where the Rabbis of the Talmud are silent and scriptural narrative is not forthcoming, Maimonides, faithful to his sources, usually leaves the matter open. His essential originality is to be found (1) in the questions he asks, (2) in sources he chooses to use and their interpretation, and (3) in his encyclopedic systematization.

The results are impressive. Only a bare outline is possible here.

Monarchy is not an inherent good; after the extinction of Amalek and the construction of the Holy Temple in Jerusalem, the purpose of monarchy is to lead in war (see below) and to maintain law and order in the name of righteousness and the public welfare. Since monarchy must serve as the instrumentality of national defense and the administration of justice, any monarchy—and not necessarily the Davidic dynasty—may be legitimate. (This refers to the Hasmoneans and has implications for present-day Jewish government.) Contrary to that of the High Priest, the anointing of a king is not sacral but constitutional—the ratification of dynasty; a High Priest who is removed retains the sanctity of his office; a king who is deposed does not. Dynasty alone does not make for legitimacy; observance of the Torah, piety and devotion to the good of the people are the necessary requirements.

Although the king (any king—even one of Davidic descent) may not be a member of the Torah judiciary (Sanhedrin), the royal prerogative is pre-eminent with regard to crimes of violence; the royal court, moreover, is not limited by Torah rules of procedure in the performance of its duty to apprehend, judge and execute murderers. What is the source of this royal prerogative? Opinions vary. Some invoke biblical precedent. Others view it as a variation of the exigency powers granted by the Halakhah to any high court of law. Professor Blidstein apparently prefers the theory of Rabbi Meir Simhah of Dwinsk (*Or Same'ah*) which views the king's special authority as related to the Noahide laws and therefore implies that government is a universal phenomenon based upon human nature. Similarly, Blidstein assimilates the *dina de-malkhuta* rule to the kings of Israel—additional evidence as to the universal character of rulership in the eyes of Maimonides, not a phenomenon “special” to Israel.

Maimonides held a modified version of the divine right of kings doctrine: God commands the setting up of a king, but He does not appoint the king. Similarly, popular ratification of the elevation of a king is not a major requirement, for the dynastic element predominates. On the other hand, rebellion is not necessarily sinful. Thus the theocratic nature of monarchy is a most limited one.

Maimonides' view of war is of especial interest. Non-defensive wars of conquest are not to be waged for mere booty and enrichment; they are to serve the national interest. This national interest is essentially the propagation of the true faith (which itself is a holistic system of philosophic tenets and a code of behavior of universal validity). Yet Maimonides emphasizes this propagation of the true faith as particularly obligatory within the confines of the borders of the Holy Land. Thus, monotheism as motive for waging war would appear to be a kind of sliding rule between religious imperialism and tolerant self-restraint.

Although the above account does justice neither to the wisdom and the depth of Maimonides' political thought nor to the erudition and perception of Blidstein's treatment thereof, it does give over an idea of some of the important matters that form the contents of this book.

Blidstein's study makes an important contribution to present-day Jewish thought. The applicability of the classical heritage—the law and philosophy of Scripture, of the Talmud, of the Geonim, Rishonim and Aharonim—to the modern condition has been a major source of hesitation and doubt. For those who regard loyalty to the Halakhah as an act of obedience to primitive prescriptions masquerading as divine fiat, national allegiance and cultural pride drive them to seek the tidbits of wisdom and insights which “our ancestors anticipated.” The halakhic Jew, who accepts the basic norm of the tradition—the duty to obey

## Book Reviews

the divine law as expressed in Scripture and as transmitted by its authoritative interpreters, developers and decisors—will prize this book all the more. For it will help him cope with the misgivings he may have regarding the feasibility of the Halakhah governing the modern state with its advanced enlightenment, its sophisticated technology and its complicated webs of interpersonal relationships. The cliché that “the Torah can solve all problems” will not do.

The history of Jewish political theory—or, undoubtedly, theories—is a major desideratum of modern scholarship. It has yet to be written. When it will be, Maimonidean thought will occupy a place of prominence. It is Dr. Blidstein’s contribution to Jewish scholarship to have worked through a comprehensive, deeply thought-through, and keenly analytic treatment of the political theory of Maimonides. For this we owe him a debt of gratitude.

*Exploring Exodus* by NAHUM M. SARNA. (New York: Schocken Books, xii + 277 pp. \$17.95.)

Reviewed by  
Mark Shapiro

Nahum Sarna’s sequel to his *Understanding Genesis* is a unique analysis of the Book of Exodus. Making clever use of ancient Near Eastern texts and history, but never losing sight of the distinctiveness of the Biblical text, Sarna has enabled the reader to discover what actually was going on in Biblical times. By placing the Book of Exodus in its own historical milieu he has given us the key to understanding many passages that are ambiguous, if not unintelligible, without an appreciation of the culture and history that are the background to the Book of Exodus.

Sarna’s method is to examine the Bible and the other ancient texts as a unit in an attempt to shed light on the Biblical text, for as Sarna has noted, “no advanced cultural or religious tradition has ever existed in a vacuum; it cannot therefore be studied in isolation.” Starting with the very beginning of Exodus and slowly working his way to the end, Sarna discusses and illuminates every aspect of the Book in light of the latest in Near Eastern scholarship. The value of Sarna’s method is that it enables the reader to discover what was happening in the Middle East during Biblical times, and thus achieve a more complete

understanding of all aspects of the Biblical narrative, *peshuto shel mikra*. Whether he is dealing with who the Pharaoh of the oppression was, describing brickmaking in ancient Egypt, identifying the location of *yam suf*, or discussing the Ten Plagues from an historical point of view, Sarna shows himself to be fully at home with all of the ancient texts of the Biblical period, in addition to exhibiting a profound grasp of the complete range of Biblical literature.

One of the most interesting aspects of the book is contained in chapter VIII. In this chapter, Sarna deals with the laws that are found in Exodus 21:1–23:19, and compares them to the various law “codes” that were in existence in ancient times. As is to be expected, there are many points of similarity between them. Yet, as Sarna points out (and many scholars would be wise to listen), similarities between Israelite laws and other Near Eastern laws have nothing to do with imitation or borrowing, for “to use these latter terms would be to ignore the nature of the phenomena of cultural diffusion and continuity” (p. 172).

The similarities that exist are based upon the common legal culture that

Israel shared with the other nations in the ancient Near East. For example, a distinctive feature of the ancient law "codes" is that they are highly selective in the areas with which they deal. Whole topics of law which one might expect to be mentioned are missing. Yet, as Sarna has shown, the laws of Exodus, and even of the entire Torah, are also highly selective and cannot properly be referred to as a code. For example, the Torah, with the exception of Deuteronomy 21:15–17, is totally silent with regard to establishing any laws of inheritance (the establishment of hereditary succession in the narrative about Zelophehad's five daughters is only formulated coincidentally as an appendix to the narrative). The Bible does not describe what ceremony legalizes marriage. The slave law of Exodus 21:9 assumes common familiarity with the practice of "free maidens." There is almost total silence regarding such matters as sale, contracts, merchants etc. (for other examples see pp. 170–171).

It is clear from the preceding that the laws of the Torah, far from existing in a vacuum, were in conformity with current Near Eastern procedures of law in which only amendments, supplements, and other exceptions to the regular practice were listed in the written "codes." The common law that regulated day-to-day living was part of an existing body of unwritten laws and methods of practice. The Jewish body of oral tradition complementing the written law (*Torah she-be-al Peh*), rather than being viewed as something belonging only to Israel and unparalleled in ancient history, as perhaps many would like to view it, is in truth, an aspect of law common to Near Eastern cultures in general.

While it is true that there are many distinctive features between ancient Near Eastern laws and the laws of the Torah, it is, as Sarna points out, the differences between the two that are of utmost importance. For the Torah, ethics and law are intertwined. Many of the Torah's laws are of a nature that renders it

impossible to enforce them. Purely religious exhortations constitute a large segment of the Torah's laws. All of these features are lacking in the Near Eastern legal texts. Secular law is all that is contained in them. Ethical precepts and cultic prescriptions are found in other works. "There is absolutely no analogy to the Torah's indiscriminate commingling and interweaving of matters 'secular' and 'religious,' of cultic topics and moral imperatives" (p. 174).

*Exploring Exodus*, with its emphasis on understanding what the text says (the *peshat*), stands in direct conflict with the current tendency in many Orthodox circles to read the Torah through the eyes of the Midrash or the commentators, until there no longer is any separation between what the text itself says and what the interpreter says *concerning* the text. This tendency is seen most vividly by an examination of the *Artscroll* series. Rather than subjecting the Torah to the kind of rigid analysis that Orthodox scholars are doing with the Talmud, and with kabbalistic, philosophic and halakhic texts, when it comes to the Bible it seems that independent discovery ended hundreds of years ago. While it is true that there have been many Biblical commentaries written in the last centuries, most have been of a homiletic nature. Most commentators who have attempted to explain the text based upon the *peshat*, while ingenuous, were not equipped with any more "scientific" knowledge than the medieval commentators and as such their commentaries are fundamentally the same as those of their medieval predecessors. An exception to this rule, the valuable *Da'at Mikra* series on the Bible, which is authored by strictly Orthodox scholars, does make use of modern scholarship in both its commentaries and its learned introductions. However, this series is in Hebrew and therefore not accessible to many who would appreciate the kind of insightful analysis that it offers. It is for these readers that *Exploring Exodus* will be of great value.

## Book Reviews

Today we have immense amounts of archaeological, geographical, and etymological data that were not available to earlier generations. It is this information that Sarna uses to enable us to get a clearer picture of the time and events of the Bible than was ever before available. This in no way denigrates the eternal value of the traditional commentator, medieval or modern. There is, however, no need for us to try to pass off historical and scientific inaccuracies as the *peshat* just because a certain commentator believed it to be the case, now that we know otherwise.

It should be noted that there are some areas of *Exploring Exodus* which are objectionable on religious grounds. One such example is its discussion of the "600,000 men on foot" who left Egypt (pp. 94–102). Not believing such a large number possible since only seventy persons were reported to have gone down to

Egypt a few generations previously, Sarna claims that the figure of 600,000 Israelites owes its existence to a later insertion, and in actuality represents the historical reality at the time of David and Solomon. "Just as each July 4th a citizen of the United States of America may wholeheartedly celebrate the achievement of independence from the British irrespective of his or her ancestral origin, so the Israelites at the time of the Temple building could see themselves as having come out of Egypt" (p. 102). Nevertheless, there are very few instances in the volume which will make Orthodox readers uncomfortable, and the vast majority of its pages will in no way offend the sensibilities of those who insist upon both the unity and holiness of the Bible. *Exploring Exodus* will be a welcome addition for anyone wishing a modern, yet traditional, understanding of Exodus.

*The Gate Behind the Wall* by SAMUEL C. HEILMAN (New York: Summit, 1984).

Reviewed by  
Alan J. Yuter

Since the world in which we live is so complex, we interact differently with various people. To our children, we are parents; to our parents, we are children. We are viewed by some as clients, by others, as professional peers, and by still others as friends, neighbors, busibodies, or *nudniks*. To his academic, professional friends, Professor Samuel C. Heilman is a social anthropologist who, as a matter of taste, quirk, biography, faith, or *mishugas*, lives his private life in accordance with Orthodox Jewish discipline. For the Orthodox Jewish faithful. Mr. Sam Heilman is a "modern," or accommodating believer who happens to earn a livelihood by teaching anthropology. Orthodox Judaism makes behavioral demands which embody a world view or social-theological con-

struction of reality that arranges space, time and values, thereby creating a religious community. On the other hand, anthropology is the discipline that explains how different cultures arrange space, time and values in their own, self-defining fashion. For Orthodox Judaism, this world construction is an ideal projected by the *halakhah*, or Jewish law, and articulated by *aggadah*, or Jewish theology. Orthodox Jewish adherents faithfully believe that this world construction represents reality from God's point of view. However, the social anthropologist finds that every culture has its own ethnocentric, social construction of reality which is formed by the language, social interactions, and institutions of its constituency. Heilman the anthropologist makes assumptions

that Heilman the believer could not make, while Heilman the believer acts out a behavioral regimen that the social conventions of the professional anthropological community would regard as hopelessly arcane.

In an earlier work, *The People of the Book*, Heilman the ethnographer describes how various American and Israeli Orthodox Jews *lern*, or engage in the ritual review of the sacred literature that embodies the world construction of Torah, the religion of the Jews. In *The Gate Behind the Wall*, Heilman does not appear as an ethnographer, but as a concerned, believing Jew engaged in what modern Orthodox people call "synthesis," the framing of the religious soul in a modern world which confronts the believer with a constellation of questions that challenge faith and the practice of *mitsvot* to the core.

As a secular scholar, Heilman is detached and neutral as he explicates the culture code of Orthodox Jews. But he is a participating observer not only of his academic subjects, but of the world of Torah and *mitsvot* that is lived and believed by his subjects. As a secular social scientist, Heilman explains how participants in the *lernen* ritual interact with each other, defines the construction of conceptual reality that they project, and analyzes the religion embodied in the rituals that the participants believe to express the will of God. First, it must be understood that *learning* and *lernen* are not identical. The learning of the university scholar is the allegedly detached secular interpretation of phenomena; learning for the Jewish elite religion scholar is the discovery of the word and will of God; and *lernen* is the folk religion participant's recovery and celebration through review of the world construction of Orthodox Judaism.

Heilman's *The Gate Behind the Wall* reveals the synthesis of the worlds in which Heilman travels and the tensions created by the conceptual incompatibility of the two world constructions. Unlike physical scientists or busi-

nesspeople, Heilman must confront not only the challenges of desire, profit, comfort, and convenience which try his devotion to Torah; since his work, by professional requirement, forces him to understand and confront other spiritual universes besides his own, his faith in the absolute nature of the Torah of Israel can be weakened. It is no accident that many Torah scholars can make their peace with business, the hard sciences, and mathematics, while they remain implacably opposed to the academic study of value-relative disciplines. Heilman is not a Torah scholar; he is a professional social scientist who confronts his Torah with the challenges of his career. He allows his profane world of social anthropology to confront his Torah life with questions that animate and enrich both. He cannot escape the secular world, but he cannot deny his faith. His synthesis is personal, and probably incomplete. But it is human, authentic, and a partial model for those committed to a full Torah life who traffic in the rhetoric of intellectual concerns.

His analysis of Israeli Orthodox study societies is not only an ethnographic project of a professional social scientist, but the personal response of an individual who is uniquely qualified to look himself in the soul and who is searching for his spiritual roots. Although Heilman is drawn to the intensity of the Bratzlaver Hasidim, he rejects their demand that he withdraw from modern life. On the other hand, Heilman finds his greatest satisfaction in communion with modern Orthodox study circles because their idealized study addresses the real world of which he is a part. They ask him only to be himself as a Jew and as a person. Heilman subsequently grows to appreciate, with renewed intensity, the construction of reality of his native culture which has much to inform his private, nonprofessional life.

Unlike most Jewish scholars of Judaic civilization, Heilman was trained in neither an advanced yeshiva, an

## Book Reviews

Orthodox rabbinical college, nor in the "Science of Judaism" approach of the non-Orthodox rabbinical seminaries. While the non-Orthodox seminaries study "Judaism" with the formal professional assumption of Jewish commitment, their scholarship assumes a methodological atheism at worst, or they impose a Protestant framing of religion at best. In short, the non-Orthodox seminaries study the thick culture of Jewish civilization as "outsiders." On the other hand, their Orthodox counterparts are uninterested in non-Orthodox, syncretistic constructions of reality, for they believe that they possess "insider" Torah, the construction of reality that is grounded in God's revelation. The non-Orthodox seminaries generally present Judaism as outsiders for a client laity whose life patterns reflect a parallel distance from intense Jewish living. Orthodox rabbinical students learn with a bias in favor of the world construction of their sacred literature, which is shared by the Orthodox community of which they are a part. Heilman is an Orthodox layperson whose academic training enables him to decode the meaning of Jewish living. Since he is a social scientist, his texts are not only the Torah and Talmud, but the believing, practicing Jewish community whose world, faith commitments and behavioral discipline

are responses to the recorded, sacred tradition. Unlike the "Science of Judaism" non-Orthodox scholars, Heilman has succeeded in an authentic integration of modernity and tradition, for he recognizes that while modernity must be a station in history, it cannot be a secularized state of mind for the faithful Jew.

To his credit, Heilman refuses to compromise either his Jewish or professional integrity. In his first book, *Synagogue Life* (Chicago: University of Chicago Press, 1976), Heilman the Jew bemoans what he finds to be the inability of the modern Orthodox Jew, betwixt and between, to straddle a modern secularity that leaves no place for the world construction of faith. Here, in *The Gate Behind the Wall*, Heilman offers a provisional program for the modern Orthodox Jew, the intellectually open believer in Torah. Heilman is brutally honest to himself as well as to Torah. He lives in different social-theological constructions of reality, each of which reflects the biases of a particular context. Heilman lives in each world with integrity, allowing each to inform, but not to distort or to dilute the other. This struggle of a not-so-simple Orthodox Jewish layperson is engaging reading for both laity and elite, Orthodox and non-Orthodox, for we are all looking for our roots.

### REVIEWERS IN THIS ISSUE

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