



## Universalism and Jewish Values

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My talk this afternoon was inspired by an earlier Morgenthau Lecture, Amartya Sen's "[Human Rights and Asian Values](#)" (PDF: 1.37 MB, 35 pages). Sen's subject is perhaps best described as the universality of universalism itself, which has been called into question by Asian traditionalists who claim that universal doctrines like "human rights" are Western inventions and imperial impositions. Sen shows, in an admirably convincing way, that similar doctrines can be defended from within the world of Asian cultures. I want to make an argument of the same kind about the smaller world of the Jewish tradition -- an argument that has, I think, both local and general interest.

Throughout the enlightenment years, which in the case of the Jews extended from the last decades of the 18th century to the end of the 19th, prodigious efforts were made to discover a Jewish universalism or, better, to define Judaism as a universal religion of ethical reason. These efforts were sometimes philosophical, sometimes polemical, sometimes merely apologetic; they were in any case convincing for one practical reason: the politics of ordinary Jews during those same years (and ever since) seemed to confirm them. Everywhere, Jews played a leading role in universalist political movements, liberal, socialist, and, later on, communist too. Wasn't this politics, in some sense at least, an expression of, or a secular continuation of, their Judaism?

But these were emancipated Jews, and even when the writers and activists among them looked to Jewish sources for their universalism -- the creation of men and women in God's image, the liberation from Egyptian bondage, the prophetic critique of injustice, the vision of a general redemption -- the actual creeds they espoused were more likely to derive from Kant or Marx than from the Bible or Talmud. Indeed, they could find what they needed in the Bible and Talmud to support a universalist politics and morality, but the discovery was too easy: they simply picked the nicest passages and ignored everything else. Their programmatic politics had little in common with the tradition as a whole or with the traditional life of the scattered Jewish communities of the exile.

Hence counter-enlightenment followed quickly upon enlightenment. Already in the 19th century there were Jewish writers who defended the traditional way of life and described enlightenment politics (and reformed religion) as a flight from Judaism, an effort to assimilate into the gentile world. Similar arguments are still being made today: "The Judaism of the last two centuries," writes Michael Wyschogrod, perhaps the most interesting of American orthodox intellectuals, "is the Judaism of self-liquidation." As Wyschogrod's brilliant book, *The Body of Faith*, suggests, an anti-enlightenment traditionalism can still be defended 200 years after the death of [Moses Mendelssohn](#) -- and defended with what, from the other side, has to be described as unexpected vigor.

This defense of tradition represents a Jewish version of the argument about "Asian values." Orthodox Jews (not all of them, but many) uphold what they take to be the true understanding of divine election and [halakhic](#) [Jewish law] order against the ever-encroaching forces of Western culture. They are resolutely opposed to universalism, at least in its secular philosophical and political versions. They have little use for the idea of human rights or for the claims that are made in its name. Like Asian traditionalists, they reject feminist demands for equality and insist that their own familial life, with all its hierarchies, is superior to anything available in the West. In Israel's disputes about foreign policy, they are unwilling to recognize a universal right of self-determination or to acknowledge the claims of Palestinians to land and sovereignty.

Though I am a product of enlightenment and emancipation, I don't think that it is enough today to respond to the traditionalist revival by reiterating 19th century descriptions of Jewish universalism. Judaism is manifestly not a religion of ethical reason; no one looking at contemporary orthodoxy and ultra-orthodoxy can have any illusions about that. Like the other world religions, it includes powerful rationalist and ethical doctrines -- and reform Jews especially have made the most of these; but it includes much else besides. At the most abstract level, monotheism, creation "in the image," and messianic redemption can generate a powerful universalist commitment.

But the concrete life of the Jewish people for most of its history hasn't been dominated by those abstractions, but rather by a God of history who not only created the universe but who also chose the Jews, and who will one day bring them a redeemer, the king messiah, son of David. Between the historical moment of election and the promised but always postponed moment of redemption, the life of religious Jews has been narrowly circumscribed, highly vulnerable, and intensely parochial. Especially so during the long years of exile, before emancipation and sovereignty: the scattered communities were everywhere subordinate and, most of the time, beleaguered and oppressed.

We can readily imagine this experience as the basis for a "liberationist" ethics and a liberal or leftist politics; it can also, however, produce an inwardly turned traditionalism, hostile toward the outside world, resentful of would-be intermediaries, and deeply suspicious of any kind of moral, political, or social inclusiveness. Among religious men and women, this latter outcome seems the more likely one. Wyschogrod, once again a useful example, describes "ethics" as the Judaism of assimilated Jews.

Nonetheless, there are interesting universalist or universalizing arguments that have been made within the Jewish tradition, in the classical texts and commentaries that reflect what I've called the concrete life of the Jews -- which means, they are not philosophical or polemical or apologetic in character. I don't want to deny the value of arguments that take these latter forms -- and that figure in the work of major Jewish writers like [Philo](#), [Josephus](#), [Judah Halevi](#), [Isaac Cardoso](#), [Hermann Cohen](#); but I am looking for something else: for the concrete, inescapable universalism of people who are not, so to speak, first-order universalists. And the place to look is in what might be called the intellectual [marchlands](#), the border areas where practical encounters with "the others" ordinarily occur (and also where they are imagined, worried about, anticipated, and reflected on). In biblical history and prophecy there are repeated efforts to deal with, if not quite to understand, the gentile nations, and the same efforts are continued or renewed in rabbinic legal discussions.

These arguments are valuable and worth recovering precisely because the universalist positions they sometimes defend differ from the standard versions of philosophical universalism. They reflect the impact of a strongly particularist creed, and they represent, most of the time, a voice from below. Enlightenment universalism in its original French version was, after all, the universalism of an elite class in the leading country of the Western world; and though the Jewish *maskilim* (enlighteners) were from a different class and country, they did the best they could to adapt and naturalize the original version. Pre-emancipation Jewish universalism, by contrast, is the universalism of the weak. I want to reclaim it now, without pretending that it dominates the tradition; I claim only that it is a significant presence, which has been repressed by most contemporary "traditionalists." Traditions should never be left to their conservative defenders.

My account of this peculiarly Jewish universalism will focus, appropriately for this occasion, on international politics. Once the Jews are a stateless people, of course, international politics doesn't take conventional forms, but I think that I can make it recognizable. I will begin before statelessness, with two biblical examples. In thinking about these two, it is important to remember that the Israelite kingdoms of the biblical age were themselves small and weak, and that the local imperialisms -- Egyptian, Assyrian, and Babylonian -- were violent and brutal and, in historical succession, triumphant. So there is a significant sense in which the Bible is already the textual record of a subordinate people, even though modern Zionists looked to it as a proof-text for Jewish political independence and warrior heroism. After the biblical examples, I will turn to two rabbinic arguments that are not discussed, as far as I know, in secular or Zionist literature.

### **Example 1: Moral Teachings of the Prophet Amos "The Covenant of Brotherhood"**

Consider first the following lines from the prophet [Amos](#):

Thus said the Lord:  
For three transgressions of Damascus,  
For four, I will not revoke it [the decree of punishment]  
Because they threshed Gilead  
With threshing boards of iron....

Thus said the Lord:  
For three transgressions of Gaza  
For four, I will not revoke it:  
Because they exiled an entire population....

Thus said the Lord,  
For three transgressions of Tyre,  
For four, I will not revoke it:  
Because they handed over

An entire population to Edom  
Ignoring the covenant of brotherhood....

Thus said the Lord:  
For three transgressions of Edom,  
For four, I will not revoke it:  
Because he pursued his brother with the sword  
And repressed all pity....

Thus said the Lord:  
For three transgressions of the Ammonites,  
For four, I will not revoke it:  
Because they ripped open the pregnant women of Gilead  
In order to enlarge their own territory....

Thus said the Lord:  
For three transgressions of Moab,  
For four, I will not revoke it:  
Because he burned the bones Of the king of Edom to lime.... (Amos 1:3-2:1)

In his [Ancient Judaism](#), [Max Weber](#) describes the "transgressions" listed here as violations "of a form of international religious law which was presupposed as valid among the Palestine peoples." "Religious law" sounds right, given the commitment to divine punishment with which each indictment begins. But whose religious law is this? The acts described are not mentioned in any of the Israelite codes; they are not the subject of any divine commands elsewhere in the Bible.

I suspect that this is in fact conventional law or, perhaps better, a kind of moral custom, obviously violated in practice, but nonetheless the product of informal, perhaps sometimes of formal, agreement. The prophet promises divine enforcement; he doesn't speak of divine revelation, and the only covenant he mentions is between two of the "Palestinian" kingdoms, not between Israel (or any of the other nations) and God. Nor is anything said about the idolatrous practices of the nations listed in the passages I have quoted; they are not condemned for their idolatry; no specifically religious demands are made upon them; they appear here as equal members of a society of states.

Note the substance of the transgressions: what is indicted here is extreme cruelty, reaching, probably, to massacre; mass deportation and enslavement; the violation of treaties; and the desecration of the dead -- all taking place in time of war. In the verses that come immediately after the ones I've quoted, Amos turns to Israel and Judah with equal fierceness, but in those cases he is concerned with idolatry and domestic injustice ("they trample the heads of the poor..."), not with foreign affairs, and he explicitly invokes divine law and covenantal responsibility.

These last are familiar texts; they show the prophet at home, in his role as social critic, and along with similar passages in other prophetic books, they have undoubtedly played a part in shaping the liberal/left universalism of emancipated Jews. But the earlier passages are at least equally interesting, even though Amos shows no concern for social justice within the neighboring nations. He is concerned only with what we call war crimes; the Amos text is a very early example of the effort to set limits on the conduct of war.

It is revealing, I think, that the effort is made within the small international society of what Weber calls "the Palestine peoples" -- that is, the two Israelite kingdoms and their immediate neighbors. The limits that are set, though apparently ineffective, are reciprocal: most of the crimes that Amos describes were committed against Israel or Judah, but he also takes notice, as Weber says, of "the injustice of a third people against another," [Moab against Edom](#). The promised divine punishments (omitted from the quotation above) don't quite fit the customary code. Some of them seem to be directed only against what we would call military targets: "I will set fire to the wall of Rabbah, /And...shall devour its fortresses." But God also says: "I will wipe out the inhabitants of Ashdod," which suggests that he too has "repressed all pity." The conventions apparently don't apply to him.

Nonetheless, when prophets like Nahum condemn the cruelty of the Assyrians, they are relying on understandings about legitimate warfare exactly like those that underlie the Amos text. The understandings, then, are taken to have universal extension; they apply to everyone's behavior. But they were first worked out among the small peoples; there is no evidence that the Assyrians accepted them, though even they understood the obligations of a treaty and, despite their reputation for cruelty, may have believed themselves to be fighting within some set of rules.

For my purposes here, I simply want to point to the Israelite acceptance of conventional law alongside divine, revealed law and to the prophetic invocation of the moral/legal conventions in arguments about military conduct in the international arena. Statehood makes this sort of thing possible, and perhaps necessary, even when the state structures are fairly rudimentary. In the long years of statelessness, the laws of war were mostly ignored by

Jewish writers (they are obviously relevant again today). Weber is surely right in reading the Amos text as the reflection of an actually existing "international law." But its actuality goes deeper: the text also reflects an existing international morality, underlying the law (as morality commonly does), which must have been worked out in the course of a long series of cross-border encounters, for the protection of the protagonists. God is, again, only the agent of enforcement; the prophet doesn't claim any more creative role for him. The condemnation of cruelty, exile, betrayal, and murder is, so Amos seems to assume, natural to humankind--even if it is also natural for human beings to be cruel, murderous, and so on.

One might also deduce from the international law of the small peoples a condemnation of empire -- as Isaac Cardoso does in his *Las Excelencias de los Hebreos*. According to Cardoso, the smallness of God's promised land is meant "to show that great realms are great plunders, and that the domination of foreign territories is more the result of violence and force than of justice and equity..." But this is a seventeenth century argument. Despite the critique of Assyria, I don't think that the prophetic texts reach as far. Amos's indictments tell us more about the equal standing of the small peoples than about the necessary illegitimacy of the great ones.

## Example 2: Messianic Vision in Micah and Isaiah "And they shall beat their swords into plowshares"

My second example is a famous text that appears in the books of [Micah and Isaiah](#), with only very minor word changes. A majority of contemporary biblical scholars (though these majorities are highly volatile) regards the source as unknown, probably from a third hand; this is a "floating" prophecy. The date is contested, and pretty much irrelevant to my purposes here, but I shall assume that it comes from the time of Micah and Isaiah, roughly, the last several decades of the 8th century BCE.

In the days to come,  
The Mount of the Lord's House  
Shall stand firm above the mountains  
And tower above the hills;  
And all the nations  
Shall gaze on it with joy.  
And the many peoples shall go and say:  
"Come,  
Let us go up to the Mount of the Lord,  
To the House of the God of Jacob,  
That He may instruct us in His ways,  
And that we may walk in His paths."  
For instruction shall come forth from Zion,  
The word of the Lord from Jerusalem.  
Thus He will judge among the nations  
And arbitrate for the many peoples,  
And they shall beat their swords into plowshares  
And their spears into pruning hooks:  
Nation shall not take up  
Sword against nation;  
They shall never again know war. (Isaiah 2:2-7)

This is clearly a messianic vision, though there is no king messiah mentioned in the text. Partly for that reason, the last five lines have played an especially important role in the literature and culture of the universalist left. But the prophecy as a whole points toward a distinctive form of universalism, which hasn't been imitated or adapted, or even discussed, in modern times. The prophet's universe is not composed, like the world of contemporary philosophers, of individual men and women who have somehow escaped their parochial identities and transcended their differences; they have only stopped fighting about identity and difference. Nations and peoples still exist and, what is more telling, they still find themselves in conflict; they are different, and they differ. They come to Jerusalem for divine judgement and arbitration.

The vision is not imperialist (though there are imperial visions in other prophetic texts): Israel neither encompasses the other nations nor rules over them. A recent commentator on the parallel passage in Micah nicely describes what happens when Zion "towers above the hills":

The result is not a religious empire or a world subject in humiliation to a triumphant Israel. The nations bring their crises to YHWH, their disputes are dealt with, and they depart. They are not dominated and incorporated in a power structure, but helped and led to a new policy that makes for life. The vision is not of some final stage in the struggle for power, but of its end. . . .

I want particularly to call attention to the commentator's perception that this is a [messianic age](#) in which there are still "crises." Crisis is a natural consequence of the continued existence of national and ethnic pluralism. In the

overwhelming majority of religious milleniums and secular utopias, pluralism is rejected precisely in order to avoid its natural consequence. In this "floating" prophecy, which was sufficiently popular to be adopted by two prophetic schools, political pluralism is made possible, and peaceful, by religious monotheism. But the common faith of the nations or, at least, their common willingness to seek the judgement of Israel's God, doesn't bring them into harmony, let alone into union. That "[God's name is one](#)," as the prophet Zechariah says it will be in the days to come (14:9), doesn't mean that humanity is one.

This is a vision that comes out of the same world as the Amos indictments, a world of small nations, whose members are, so to speak, accustomed to one another. They fight and they negotiate; they share a common law, which they are often tempted to violate. Their vision of peace not only includes the others but accepts their otherness. The prophets of an imperial power would be likely, I think, to give an entirely different account of the days to come. Presumably they would be critics of imperialism, but what they would yearn for is an empire without domination, a world state of equal citizens, not a jumble of heterogeneous and contentious nations.

Imperial intellectuals are commonly captured by the idea of a "[pax Romana](#)" even when they have no illusions about the character of "Roman" power. They imagine the pax without the power. The Israelite prophet solves the power problem by invoking a "pax dei," but he then returns to the familiar jumble of nations. It's that return that gives his vision its attractive modesty. If "swords into plowshares" is utopian, the plural "nations" and "many peoples" is realistic.

### **Example 3: Rabbinic Maxim on Jews in Exile** **Dina d'malkhuta dina [The law of the kingdom is law.]**

The third argument that I want to examine develops around the legal maxim with which the rabbis accommodated themselves, and the nation generally, to the political conditions of the exile. Now statehood and sovereignty have been lost; the Jews are scattered, ruled by alien kings. They no longer play a part in international society. But they still need what we can think of as a foreign policy: they have to deal with the alien kings. This can't be a single foreign policy, conducted from a central ministry. It is highly localized, the work of many intermediary figures (like the "intercessors" of the medieval period). Nonetheless, it has remarkably similar features across the diaspora.

Everywhere it starts from the legal position first adopted in [Babylonia](#): "The law of the kingdom is law." *Dina d'malkhuta dina*. The function of this maxim is not only to accept gentile rule, but to incorporate it into the halakhic system. Now Jews who obey the law of the country in which they find themselves are also, first of all, obeying a Jewish law that tells them to obey the law of the country in which they find themselves. The law of the country is domestic in character; the halakhic maxim is something like international law for the diaspora -- and its extensions and qualifications, as we shall see, take on universal meaning. *Dina d'malkhuta dina* is recognizably linked to the international law of the small peoples of the biblical age: it is another example of the universalism of the weak.

The maxim doesn't stand by itself; it can't be unqualified, else it would leave no room at all for any Jewish law except this one self-immolating principle. In practice, its effects are limited to civil law; it involves an acceptance of the king's right to tax and of his regulation of the property system. Religious law, by contrast, is not subordinated to the law of the kingdom, and since religious law includes personal status (marriage, divorce, conversion, and so on), there continues to be much work for the rabbinic courts.

But this important exception to the (gentile) king's authority, insisted upon for the sake of religion, was not developed into a general demand for a separation of religious and civil jurisdictions -- and certainly not into a claim for religious freedom. Here a universalist moment is missed: the standard argument isn't that people generally should be allowed to follow their understandings of God's law, but only that Jews must obey the divine commandments that were delivered to them at Sinai. The Jews in effect separated the synagogue from the (gentile) state, but they did not argue that separation was a good thing; it was just one more perverse but necessary feature of exilic life. Even so, they might have recognized that it was necessary also for other "exiles," that is, for minorities generally; but I know of no writers who made that argument.

Still, the maxim about *dina d'malkhuta* was qualified in other ways that are more readily universalized. For the rabbis did not mean to expose Jews to arbitrary or unfair laws. From very early on, cases of confiscatory taxation or tyrannical decree or discriminatory legislation were not taken to be "covered" by the maxim. It might be necessary to pay the taxes or obey the decrees, but it wasn't necessary to call them legitimate. And the standard way of refusing to do that was to say, this isn't "law." The strategy was to essentialize law and thereby to universalize it. What isn't law isn't legitimate -- in principle, it isn't legitimate for anybody.

The strategy can be extended: if the king confiscates the property of one of his subjects or gives arbitrary power to a tax farmer, setting no limits to what he can extort, that isn't "taxation," it's robbery. Imagine, says [Maimonides](#), that the king "takes the courtyard or field of one of the citizens [as the biblical King Ahab tried to do], contrary to the laws he has promulgated: he is deemed a robber..." (Most Jewish burghers dealing with most

gentile kings in the years before emancipation thought, probably rightly, that they were being robbed.)

But the most important demand of the Jews in exile was for equal treatment: law must be general and nondiscriminatory in its application. The "general rule," according to Maimonides, is that "any law promulgated by the king [must] apply to everyone and not to one person alone..." This isn't quite the same thing as a demand for full equality before the law; it doesn't reach, for example to class differences. Ideally, however, it does reach to national differences, as the Bible seems to require: "[There shall be one law for the citizen and for the stranger who dwells among you](#)" (Exodus 12:49). There are other biblical commands, however, that require discrimination, and this verse from Exodus was probably honored most often in the breach.

Still, it was what Jews hoped for in the lands of the exile. Their extreme vulnerability sometimes forced them to concede that special laws might be enacted for "strangers" like themselves -- and then they asked only that all Jews be treated equally. It is worth noting that this concession was forced by the harsh conditions of Jewish life in Christendom; rabbinic authorities in Muslim lands claimed a more general equality (which is not to say that the claim was accepted). Of course, the rule that law must be non-discriminatory was a formal principle of both Christian and Muslim jurisprudence, even when "strangers" were in fact discriminated against. But it was the strangers themselves for whom the principle had practical value; it was worth insisting on whenever they were able. "This is not a fair law," says a thirteenth century rabbinic responsum, criticizing an act of royal discrimination, "and is not law..." Here again is the universalism of the weak.

As in my other examples, it is a very modest universalism. It doesn't require that the law be substantively just, only that it not be radically unjust. And, at least in its Jewish version, it doesn't propose resistance or revolution in the face of illegitimate law. In general, I think, the members of pariah religious and ethnic groups can't be revolutionaries; emancipation is the precondition of revolutionary politics. And resistance, in the "internationalist" terms that I have adopted here, would have to take the form of a war -- a just war, perhaps, but not a possible course of action for the scattered and vulnerable Jewish communities.

What the rabbis propose instead is evasion: since this isn't a tax, you are justified in looking for any possible way of not paying it. Since this isn't a law, you are justified in disobeying it and also in lying about your disobedience. There is no call for civil, that is public, disobedience in the Jewish texts; that kind of behavior depends upon a significant degree of trust in the overall justice of the political system, and the Jews had no such trust, and no reason to have it, in pre-emancipation times. What they did have was a minimalist sense of what justice might mean in a system that included small peoples like themselves. The minimum requirements were all negative in character: taxes should not be arbitrary or unlimited; the king should not rule by decree (but only by public enactment or longstanding custom); the laws should not discriminate among the individuals and/or nations subject to the king's authority.

#### **Example 4: Noahide Code**

**"There is nothing permitted to Jews that is prohibited to gentiles."**

My last example is the [Noahide Code](#), which represents the Jewish tradition's closest approximation to a standard universalism. The actual meaning and purpose of the Code is the subject of much debate both in the classical texts and among contemporary scholars. I won't provide an account of the debate here, though aspects of it will be reflected in my own analysis. I am radically dependent in this section on two wonderfully erudite and subtle books by [David Novak](#) that analyze the Code as a kind of natural law.

These are the laws that, according to the Talmud, were given to Adam and again to the sons of Noah -- that is, to humankind generally. The number varies in different versions, but the standard number is seven, and six of these laws are, again, negative in character: the Noahides are forbidden to practice idolatry and blasphemy; they are forbidden to commit murder, robbery, and a set of sexual acts that includes incest, adultery, and homosexual intercourse; and they are forbidden to eat the flesh of a living animal (this last is read by Maimonides as a ban on cruelty). The seventh law is positive: they are required to establish a judicial system (presumably to enforce the first six laws).

These seven are derived exegetically from verses in the book of Genesis that, with the exception of the bans on murder and the flesh of a living animal, do not bear the interpretations they are given. The Noahide Code is a speculative venture of the rabbis; it describes at once the obligations of all humanity before the Sinai revelation and the obligations of non-Jews after -- the Jews having been given a much larger set of laws, which includes the original seven. The seven, however, are so generally stated that they invite elaboration, and in some versions they pretty much cover the same ground as Jewish law except for its ritual provisions: holidays, the dietary code, sacrifices, purity, and so on.

It is easy to see how the Code could come to represent a Jewish version of natural law. It incorporates the standard moral rules, which have in (some) other traditions also been thought to include or require a commitment to monotheism. And a number of Jewish writers have explicitly argued that it is possible to arrive at the seven laws through reason alone or, more specifically, through reflection on the human need for society. But in the

original rabbinic teaching, the laws of the Noahides are commandments, not rational deductions and hence not, in the usual sense, "natural" to humankind; they are the first example of revealed law; the Torah delivered at Sinai is only the second. This is how gentiles are recognized by religious Jews as moral beings: they live, like the Jews, "under the commandments." There is quite a bit of leeway for interpreting the commandments, but all human beings start by being commanded. The traditional Jewish view is that we do not create the moral universe; we only inhabit it. What's important here is that we all inhabit it.

But it is also the traditional view that we inhabit it by choice. Human beings are free to refuse the commandments and walk out of the moral universe. It is wrong to do that, but not impossible. And the standard Jewish claim about the [idolatrous nations](#) is that they have done exactly that. It is virtually analytic to the Jewish understanding of idolatry that idolators recognize no moral restraint. If they violate the primary Noahide commandment, then they violate all the others. Simple empiricism would lead observers of real-idolators-in-the-world to question this analysis, and such questions do surface in rabbinic literature.

But the double standard with which early Jewish law treats Jews and gentiles makes sense only if the idolatrous others are taken to be radically lawless. (They have no sense of property, for example, hence the law about the return of lost articles [Deuteronomy 23] doesn't apply to them...and so on.) One purpose of the Noahide Code, then, is to mark out the people to whom the double standard doesn't apply and with whom moral co-existence is possible.

It could do much more than this: the Code also provided the basis for a full acceptance of the "other" as a religious equal. Thus [Menachem Meiri](#), a 14th century halakhist and talmudic commentator living in Provence, writes that "Every [Noahide](#) whom we see, who accepts upon himself the seven commandments, is one of the saints of the nations of the world, and is in the category of the religious, and has a portion in the world-to-come."

In some sense, this is the standard view of the Noahides, though the meaning of its various parts (above all the phrase "accepts upon himself") is disputed, and Meiri's strong statement owes a great deal to the relatively benign character of Jewish-Christian interaction in 14th century Provence. But the central focus of the legal literature is not on individual Noahides, but rather on the gentile nations. The Code is, again, a kind of international law; the agents to whom it is chiefly addressed are organized groups of men and women, imagined as accepting the Code or not, living with or without legal constraint.

At the same time, many of the rabbis, in both the talmudic and medieval periods, regard the Code as if it was designed for resident aliens in the Land of Israel, the subjects of a Jewish king. Since there was no continuous tradition of gentile acknowledgement and observance of the Code from the days of Noah forward, and since the Noahide Code was included in the [Sinai revelation](#) (in effect, revealed again), these rabbis take the Code to be, effectively, Jewish law for the gentiles. This is "our" universal law for "them"--much like the earliest form of the *jus gentium*, which was simply a form of Roman law for non-Romans.

Hence the Noahide Code is meaningful only when Jews exercise political power: they take responsibility for the seventh commandment and set up a judicial system to enforce the other six commandments on their non-Jewish subjects. In this form, "natural law" is very much an imperial creation, and here, as in other empires, it marks out a way of tolerating foreign nations. Or, at least, it defines a limited toleration: resident aliens must give up idolatry; they need not convert to Judaism.

If the Noahide Code is an imperial creation, then, so it is often said, it must have been created in an empire. This belief has led some scholars to date the Code from [Hasmonean times](#), when Jewish rule extended over a number of non-Jewish nations. But some of these, like the Idumeans, were forcibly converted -- which suggests that adherence to the Code was not yet available, or not yet acceptable, as an alternative to conversion.

Probably, the Code is a later creation, the product of an imperial imagination rather than an actual empire. The rabbis imagined a messianic age when a Jewish king would rule, not over the world, but over the land of Israel, and they imagined the land with its existing heterogeneous population. Given their unhappiness with the Hasmoneans and with the policy of forced conversion, they then had to work out a more minimalist set of rules for gentile residents. These are conceived to be rules that all human beings must obey, but mostly don't; so the rules are enforced by the Jews wherever they are able to enforce them (but this is, again, a purely imaginary "ability").

Maimonides, the greatest of the medieval Jewish philosophers, seems to have held this view of the Noahide Code. Isaac Cardoso argued from it, on the principle of reciprocity, that Christians should give to Jews the same status as Noahides would have or, as he thinks, once actually had in a Jewish kingdom -- "resident sojourners, who...were able to live among [the Israelites], although they did not follow their Law."

But there is an alternative understanding, according to which the Code is simply the law of the Noahides, and the Jews have no special responsibility for its enforcement. This alternative is less the product of philosophical or theological reflection than of experience. Exilic Jewry had no powers of enforcement, and yet in all the countries of the exile the Code was more or less effectively enforced by the Noahides -- that is, the gentiles -- themselves.



four examples, in all of which the ongoing co-existence of Israel and the nations is assumed.

Co-existence is necessarily rule-governed. That, at least, is the Jewish assumption; there is no love of anarchy among traditional Jews; [antinomianism](#) appears sometimes in mystical thought, but not here in the marchlands, where one actually has to deal with the other nations. Here there are rules for the conduct of war; divine arbitration; legal limits on taxation and on state action generally; rules of adjudication; and, finally, a basic moral code. All these apply across actually existing national and religious boundaries. Some of their content is included in Halakhah, formally incorporated into Jewish law. But all of them are first imagined and developed outside, and they are best understood as constituting a Jewish universalism -- which takes the characteristic form of a common law for the nations.

In fact, we should think of it as a common law in the making, as common law commonly is. Amos's rules for war are not a code, but only a series of examples; the argument invites more work, and the work is well worth doing. The wars of modern Israel have led some contemporary rabbis to struggle with halakhic precedents about military conduct, but these are meager (because there were no Jewish armies whose conduct required regulation, and they are scarred by exilic resentments).

Amos's customary law reflects, as I have already argued, a state-like posture and a morally helpful commitment to ongoing relations with other states. Similarly, the limits on *dina d'malkhuta dina* have to be figured out anew in each "kingdom" -- and why not in Israel too, where the principle of non-discrimination could play a useful critical role? And, again, the Noahide Code is far too vague to serve as an actual set of laws; it has to be expanded and interpreted -- and has been the subject of a wide range of expansions and interpretations.

None of these examples are definitive, but the arguments themselves have served as a useful background for everyday encounters with the "others." There is no reason why these arguments cannot go on today, taking into account the place of Jews in the modern world and of Israel in the society of nations. In any case, they have gone on long enough so that it makes no sense to claim that universalism depends on Greek philosophy or on Christianity (or on some combination of the two), or that it is a secular liberal invention, or that it must be philosophically grounded in Kantian ethics, or that it is uniquely Western (or, for that matter, that it is the product of Jewish assimilation). There are many different universalisms, many different idioms in which similar universal values can be and have been expressed.

Among the Jews, one can find both high-flying (philosophical) and low-flying (political/legal) versions of universalist argument. I have focused on the second partly because it is less well understood, but also because it is more realistic and perhaps more useful on the ground. But does this second version reach as far as many Jews today want to go? Does it reach to an account of human rights? Does it allow for feminist claims to equality? There is no reason why Amos's ban on the exile and enslavement of "an entire population" cannot be expressed in the language of rights (as the condemnation of "ethnic cleansing" is expressed today), and no reason why the Noahide Code's ban on murder and robbery can't be taken to rest on rights to life and property. What is today called "rights talk" could easily be introduced into the common law of the Jews.

Feminism is harder, given the overwhelmingly patriarchal character of rabbinic Judaism. But the comparative perspective opened up by the Noahide Code offers interesting possibilities. For if gentile men are now prohibited from ruling tyrannically over their wives and daughters, how can this be permitted to Jewish men? It would be a scandal and a discredit to God.

I don't say this to mock the tradition. In fact, I am being true to it. Polygamy was finally ruled out as a Jewish practice, sometime around the year 1000, with arguments of exactly this kind. When Rabbi Gershom and his colleagues forbade marriage to more than one woman, they acted, writes [Robert Gordis](#), because "they found it intolerable for Jews to maintain an attitude toward marriage...that set women on a lower social and ethical plane than did their monogamous Christian neighbors." That is a good argument, and it is no sign of progress that contemporary orthodox writers would probably find it incomprehensible or repugnant -- a call for assimilation. This way of recognizing the possible moral value of what the "others" think and do is a key feature of low-flying universalism, and low-flying universalism arises within the tradition. You live with other people, and you have to look and see what they are doing.

There are still judgements to be made, of course, and these will reflect Jewish experience and values. But Jewish experience isn't the whole story; Jewish values aren't the only ones. The arguments that I have canvassed here are invitations to further argument, which will rightly be shaped, in the future as in the past, by the ongoing, permanent engagement with other nations and religions. Anyone who claims that this engagement is an imposition of Western culture isn't being faithful to the Jewish (or, I suspect, to any other) traditional way of life.

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