

A Medieval Jewish Philosophical View on Bioethics: The Case of Maimonides

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And now for something completely different - a historical talk regarding a medieval Jewish philosopher, or perhaps I should say *the* leading medieval Jewish philosopher, and his thought regarding issues relating to bioethics.

Moses Maimonides was born in 1138 in Cordoba Spain, and died in 1204 in Cairo Egypt, where he lived for most of his life. He was buried by his own request in Tiberias in the Land of Israel. He is truly one of the most exceptional individuals in Jewish history. He attained a position as a physician in the royal court, he became the leader of the Egyptian Jewish community, he compiled the first complete code of Jewish law, entitled the *Mishneh Torah*, and as a result is recognized to this day as one of the all-time greatest legal authorities in the history of Judaism, and he wrote a treatise in Jewish philosophy, the *Guide of the Perplexed*, which many consider to be the greatest work in Jewish philosophy ever written, and which continues to exert its influence to the present day - quite an achievement for one individual.

Judaism is a very law based religion. Its most sacred text is the five books of Moses, known also as the Torah or the Pentateuch, which was said to have been dictated by God to Moses during a period of 40 years when the Israelites wandered in the Sinai desert after their redemption from slavery in Egypt, around three and a half thousand years ago according to Jewish tradition, and before they settled in the Land of Israel. Yet in addition to the Torah which was dictated by God to Moses and written down by him, Jewish tradition also posits the existence of an oral law which was also given to Moses and which consisted of legal explanations of the laws contained in the Torah. This oral law, again according to tradition, was passed on from generation to generation, and it was finally organized and written down, at least in part, towards the end of the

second century in the Land of Israel by the religious leader of the period, Rabbi Judah the Prince. This work is known as the *Mishnah*. During this entire period there were also many ordinances and additional laws that were promulgated by successive generations of religious leaders. Some of the more important ordinances were included in the *Mishnah*. Academies devoted to the study and interpretation of Jewish law existed before the period of Judah the Prince, and continued to exist well after him, the most prominent ones being in the Land of Israel and in Babylonia, or present day Iraq. Two monumental works devoted to these legal discussions were compiled after Judah the Prince, both of them following the arrangement of the *Mishnah*. One is known as the Jerusalem Talmud (more commonly called in English the Palestinian Talmud) and the other more influential compilation which remains the focus of Jewish religious study to this very day is called the Babylonian Talmud. After the compilation of these two works, religious scholars continued to interpret and decide questions of Jewish law. Some of them wrote legal treatises devoted to a particular subject, for example laws of inheritance. The *Mishnah* and the discussions in the two Talmuds, particularly the Babylonian, served as the basis for all subsequent legal interpretations and decisions. The greatness of Maimonides' achievement in the area of Jewish law was not so much the innovations he introduced in Jewish law, though he certainly introduced some very far reaching innovations; rather it was the nature of the treatise itself. We can say that in this case the medium was the message, for prior to Maimonides there was no complete code of Jewish law. The *Mishnah* is a very fragmentary code, the Talmuds are not codes at all. Legal decisions tended to be debated among different legal authorities, who often reached diametrically opposed conclusions. Comes Maimonides who learns all the material, decides all the legal issues that were debated by legal scholars, and organizes all the laws in a concise and easy to learn format - 14 books, each devoted to a different topic and divided into subtopics, with a table of contents at the beginning. It was a revolutionary achievement. As is true of law books in general, Maimonides simply states the law, rarely offering his legal reasoning or meta-legal considerations. The study of Maimonides' codex reveals that he tends in most areas to be conservative in his rulings, reflecting the formal rules for

deciding the law in cases of dispute between different authorities, particularly the disputes found in the Talmud.

This short summary of the nature of Jewish law until Maimonides' time is to show why his great legal work is *not* a good source for understanding *his* bioethical thought. It is a great source for understanding Jewish legal decisions on issues related to bioethics, whether it is the Jewish legal stance on abortion, euthanasia, cruelty to animals, and other such issues. The stress in this case, however, is on the *legal stance* of Judaism on these issues, not the *philosophical stance*, since such explanations in Maimonides' code are rare, and on the *Jewish stance*, but not *Maimonides'* stance, because Maimonides rarely attempts to rewrite law or reinterpret it in accordance with his personal preferences. Rather, he attempts to gather together all the laws in a work which he hopes will become the standard textbook of Jewish law for his generation, if not also the following generations.

So where can we hope to find Maimonides' own thought on at least some of these issues? The best source is obviously his philosophical work, the *Guide of the Perplexed*, written over 20 years after his *Mishneh Torah*, though this work barely deals with the topic in question. While ethics is an important topic in this treatise, it is treated from a more general perspective, and rarely does Maimonides touch upon what we call today bioethical issues. Yet what he does provide in his treatise is a general ideological framework to view some of these issues. Just as important, one of the main topics discussed in this treatise is the reasons for the commandments. This gives us an opportunity to view Maimonides' understanding of biblical laws that relate to bioethical concerns. Maimonides wrote another book prior to writing his *Mishneh Torah*, which also allows us a glance at his thought on some of these issues. This work is his *Commentary on the Mishnah*. While his commentary is mostly a legal commentary, parts of it are devoted to a discussion of ideological and philosophical issues.

I will not attempt today to give a synoptic view of where Maimonides stands, or appears to stand, on the range of issues which fall under the category

of bioethics. Rather I would like to focus a single issue: How human beings should relate to animals. Again, some words of introduction are appropriate before we can take a look at Maimonides' view on this issue. The Torah or Pentateuch presents a very anthropocentric stance, indicating already in its opening chapters dealing with the creation of the world that human beings are to rule over all other creatures. It is not clear whether Adam and Eve, the first human beings, were permitted to eat meat, but it is clear that Noah and all his descendants were so permitted, with the exception that they could not eat the limb of a living animal, at least this was how the prohibition was understood according to the Oral Law. That is to say, one could not slice off a limb from an animal while the animal is still alive and eat it. In addition to this law, a series of laws contained in the Torah that can be construed as preventing cruelty to animals were given specifically to the Jewish people, in addition to many restrictions pertaining to what animal, fish, fowl and insects can and cannot be eaten. I will single out just a few of these laws since they will be important for understanding Maimonides' position on this issue. The first law is the law concerning how animals that are permitted to be eaten according to the Torah are to be slaughtered. The Oral Law lays down some very detailed conditions regarding the sharpness of the knife as well as the manner of killing. The animal is to be killed by a swift cutting action starting with the trachea, and not with any other part of the body such as the neck. Rabbinic tradition was convinced that this led to the most speedy, least painful death of the animal, hence the reason for this method of slaughter. Another commandment concerning limiting conditions when one desires to eat certain permitted foods involves the situation of taking eggs or baby chicks from a nest while the mother is sitting on them. The Torah stipulates that the mother bird must be first chased away before the eggs or the chicks can be taken. In this case too, many rabbis understood that the reason for this law was to spare the feelings of the mother so she would not witness the taking away of her eggs. Finally, there is a commandment that one cannot slaughter a female animal that is permitted for consumption together with her offspring on the same day. Here too no actual reason is given in the Torah, but a case has been made that like the case of the mother hen, this law involves prevention of psychological cruelty to animals. With these Torah laws in mind,

together with their legal interpretation in the Oral Law, we can now take a look at Maimonides.

Maimonides, as I already noted, was a philosopher and a physician in addition to a great legal authority. In the field of philosophy he was definitely an Aristotelian, and he always treats Aristotle as the chief of the philosophers. He was strongly influenced by the great commentators from late antiquity on Aristotle. From the Islamic Aristotelians closer to his own period, he was most influenced by Alfarabi, Ibn Bajja and Avicenna. He only became aware of Averroes' commentaries after he wrote the *Guide of the Perplexed*. In the field of medicine, the great physician Galen was his main source of knowledge.

In his *Commentary on the Mishnah*, Maimonides follows both the Bible and Alfarabi in adopting an anthropocentric view of the world, at least as far as the planet earth is concerned. In discussing God's purpose in creating the earth, he writes as follows based on Aristotle's notion of final cause:

Know that the ancients [namely, the Greek philosophers] undertook a wondrous investigation, based on their wisdom and quality of thought, and they verified that everything existent has by necessity a purpose for which it exists, for nothing that exists is for naught [...] As for what was created by divine activity and natural wisdom - such as the types of trees and types of plants and types of minerals and stones and animals - there are those whose purpose is grasped after limited investigation, and others whose purpose is grasped after extensive investigation, and still others whose purpose is hidden, so it is not known at all, unless by way of revelation or by knowledge of esoteric matters, but not by scientific investigation. Human beings are incapable of investigating and knowing why nature created some ants with wings and other without, and why some worms with many legs and others with few, and what is the purpose of the worm and of the ant. But in regard to larger entities whose activity is more apparent, the superiority of one sage over another is to be found in their knowledge of the purpose of these entities.

Maimonides goes on to declare unequivocally:

All earthly creatures were created solely for the benefit of human beings. All species of animals - for food, such as sheep and cattle, or for other purposes, such as donkeys to carry burdens that human beings cannot.

Similar examples are brought by Maimonides from different species of vegetation. He continues to argue:

Anything that belongs to animals and plants that has no utility or nutritional value in one's view, is due to a deficiency in our knowledge. It is not possible that there be any plant, tree or creature, from an elephant to a worm, which does not possess some utility for human beings. Our proof for this - in every generation we discover the utility of species of trees, which were unknown to previous generations, and we attain from them many benefits. No one is capable of comprehending the utility of all the plants, but it is revealed by way of experience in the course of time.

Before I continue, let me note that while Maimonides sees all life on earth as having been created for the benefit of human beings, his approach demands that we safeguard our environment. The extinction of species of plants and animals according to his way of thinking will ultimately harm human beings in depriving them of the benefits that they bring about, even if they are unknown to us at present. Recent advertisements for saving the Amazon rainforests sound downright Maimonidean. Yet it should also be stressed that Maimonides is confident on this point precisely because no species comes about accidentally in his conceptual scheme. The Bible and Aristotle are in complete agreement on this point, for according to the Bible everything comes about as part of the divine scheme and for Aristotle too nature does nothing in vain. There is not a Darwinian universe, but one in which everything results from an order reflective of optimal intelligence. Following later rabbinic and Aristotelian thought, Maimonides sees the whole purpose of all earthly entities as contributing to human life.

It is precisely this point that leads Maimonides to deny that God is concerned with the destiny of the individual members of all species other than

the human beings. This in turn leads him to adopt what otherwise would appear to be a strange interpretation of a passage in the Mishnah compiled by Judah the Prince. The Mishnah indicates that one who says while praying that God's mercy extends even to the bird's nest, should be silenced. This is a reference of the mercy for birds reflected by the law that the mother bird must be sent away before taking her eggs or chicks. The obvious question is why then should a person in his prayer not be allowed to point to this example of God's apparent mercy as a way of praising God. Maimonides comments as follows:

This person [the one who utters the praise] explains the reason for this commandment as due to the mercy displayed by God for the bird. But this is not the case. For if the reason were God's mercy, God would have commanded not to slaughter birds or animals at all. Rather, this is a commandment based on tradition that has no reason.

In other words, God would have commanded us to be vegetarians if He were really concerned for the welfare of birds and animals. Yet Maimonides had already shown that birds and animals all exist for the benefit of humanity, including for nourishment. Hence he sees no convincing reason why God appears to be concerned with the mother bird in this case. Mercy in his view is clearly *not* the motive. Nor does he see any other compelling reason for this law.

Years later when Maimonides writes the *Guide of the Perplexed* he adopts a different view on the subject of the reason for this commandment. Let us first, however, examine Maimonides' view on the purpose of plants and animals as this view emerges in the *Guide*. In his discussion of the problem of the final cause or purpose of the universe *as a totality* in 3:13 of his treatise, Maimonides agrees with Aristotle that no final purpose is to be found. Existence of the universe is an end in itself. The same, however, cannot be said of all the species or types of existents. He approvingly cites Aristotle in maintaining that we do not know the final cause in regard to most species, but that plants have been created for the sake of the animals. As for the final cause of animals, Maimonides, still following Aristotle, appears to reiterate his position in the

Commentary on the Mishnah, but this time with some equivocation on his part. He writes as follows (as translated by Shlomo Pines):

What appears to result from the discourse of Aristotle is that, according to him, the ultimate finality of these species consists in the permanence of coming to be and passing away, which is indispensable for the continuance of coming-to-be in this inferior matter, since it is impossible that the individuals composed out of it should endure. Still, the end that can be generated, I mean the most perfect thing that is possible, is generated from it. For the ultimate purpose consists in bringing about perfection. And it is manifest that the most perfect thing, whose existence out of matter is possible, is the human being; he is the last and most perfect of the composite entities. Accordingly, even if it is said that all earthly beings exist for the sake of human beings, that would be true from this point of view; I mean because the movement of changeable things exist for the sake of coming-to-be in order that what is as perfect as it is possible to be should come about.

While Maimonides continues to hold that human beings are the final purpose of all that exists on earth he is more ambiguous on the question whether all species are designed to benefit human beings directly. Furthermore, in the continuation of his remarks he says:

It should not be believed that all the beings exist for the sake of the existence of human beings. On the contrary, all the other beings too have been intended for their own sakes and not for the sake of something else [...] For we say that in virtue of God's will He has brought into existence all the parts of the world, some of which have been intended for their own sakes, whereas others have been intended for the sake of some other thing that is intended for its own sake.

The planets and angels, or Separate Intellects, were not created for the sake of human beings - Maimonides is explicit on this point. But is he not hinting here that perhaps not all species of animals were created to benefit human beings, at least not directly? It may be that he feels that existence of living beings on all

possible levels of existence (what is known as the Great Chain of Being, or the Plenitude of Existence) is in itself the final goal. Maimonides leaves this question open, though he continues to regard the human being as superior to all other earthly species and from a certain perspective the final goal of all life, at least on earth. At any rate, he essentially supplies us with two good reasons why we should avoid bringing about the extinction of any species. Either this act will ultimately harm us by depriving us of the benefits the species brings about, or it would result in negating the divine plan that sees in the existence of each species an end in itself.

When it comes to the commandments of the Torah, Maimonides' position is unequivocal - all the commandments without exception were designed to benefit the intellectual and social wellbeing of human beings. All species were created with the means to survive for a certain period of time, and with the ability to procreate and in this manner ensure their continuance, but the commandments are not designed for their benefit. The social wellbeing of human beings lies primarily in training them to be moral individuals, with virtuous character traits. Mercy in Maimonides' view is one of the cardinal traits. An ideal society is one in which people act mercifully and show concern for each other, though not against willful evildoers in which case Maimonides recommends stern measures in order to protect society. Maimonides' approach suggests that if God commands us to act mercifully towards non-human life forms, the immediate concern is not for these life forms themselves but for human virtue. Yet one cannot speak of acting mercifully towards that which has no feelings in his view. One cannot act mercifully towards an inanimate object, except in a metaphorical sense, since such objects are incapable of suffering or any feeling. For Maimonides, animals and even birds do have the power of imagination and with it certain feelings, hence they can feel suffering, and so one should act with mercy towards them. One should not slaughter a female animal and her children together to spare the pain of the mother, just as one is commanded to send away the female bird before taking her eggs for the same reason. He no longer regards this law as a decree of God without reason, as he did in his *Commentary on the Mishnah*, but a decree whose reason is quite

evident. Maimonides maintains that the law is concerned that one should not bring about pain in the souls of animals, let alone in the souls of other human beings. So why doesn't the law command us to be vegetarians if it is concerned with not bringing about pain even in animals, as Maimonides had argued earlier? His answer is a simple one. As a physician he regards meat, particularly of those animals deemed to be pure by the Torah, as highly nutritious. In short, he treats eating meat as a necessity in order to maintain one's physical welfare. So he concludes:

Now since the necessity to have good food requires that animals be killed, the aim was to kill them in the easiest manner, and it was forbidden to torment them through killing them in a reprehensible manner by piercing the lower part of their throat or by cutting off one of their members.

The Torah, in other words, compromises between conflicting concerns regarding human behavior. On one hand, it wants to ensure the human being's physical wellbeing, hence it allows human beings and in fact encourages them to eat meat, though it allows the Jews to eat only the purest kinds of meat in Maimonides' view. On the other hand, the Torah is concerned with the human being's moral virtue, so it attempts to ensure that he will inflict as little pain as possible when slaughtering animals, and will not act cruelly towards them. Maimonides certainly does not think that other earthly life forms have the same value as human life. Human beings, as I noted, remain for him the most superior forms of life on earth and the final purpose of all earthly species, at least from a certain perspective. Yet this does not give a license to human beings to act in any manner they so desire. Rather they must act responsibly and virtuously towards other creatures. If a major component of human perfection is moral perfection, then any pain willfully inflicted on animals, let alone on other human beings, diminishes its perpetrator. Let me stress however that Maimonides is not thinking simply in terms of what we would consider self-interest. He is thinking in terms of perfection. The natural goal of all human beings is to strive for human perfection, and an expression of that striving is how we relate to others of our species as well as inferior species.

I would like to conclude by pointing out that the underpinning of Maimonides' approach is a view shared by Aristotle and the Torah despite all the conceptual conflicts between Aristotelian philosophy and Jewish tradition. The universe is a well ordered one where no species exists by chance but is part of the workings of the whole. Nature is not blind nor do species come about and survive due in large measure to chance. As I already noted, theirs is not a Darwinian universe. The human being is clearly the most superior species on earth according to the Torah and Aristotle alike, yet the human being is not free in creating values and purpose. Rather for Aristotle, value and purpose is ingrained in the order of nature, while for Jewish tradition, it is the observance of divine commandments that imparts value and purpose (as well as reward and punishment). Moreover, the stress of both the Torah and Aristotle is on human virtue and duty, not on human rights, let alone animal rights. We as human beings have an obligation to deal kindly with animals and to protect our environment, but animals themselves have no rights just as they have no obligations. Maimonides himself argues that the reason that a dangerous animal belonging to another person is put to death if the animal kills a person is not as a punishment to the animal but to its owner. It is the genius of Maimonides to see this fundamental agreement between what is normally regarded as fundamentally conflicting world views, that of Aristotle and that of Judaism, and to build upon this agreement. We can easily find relevance today to Maimonides' approach, but we should still keep in mind that modern philosophy and science no longer share the conceptual foundation upon which his approach is based, just as modern political and ethical thought, which is based far more on a discourse of the rights of the individual rather than his obligations, is far removed from Maimonides' thinking.