

# The Rise of Halakhic Religiosity of Mystery and Transcendence\*

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For Moshe Idel

## 1. Defining “Halakhic Religiosity of Mystery and Transcendence”

In the late Middle Ages, Jewish tradition saw the development of an outlook whereby the reasons for commandments [*ta'amei ha-mitsvot*] are beyond human understanding. The outlook was not limited to particular commandments that were perceived as beyond comprehension, rather the true, deeper meaning of *all* commandments was seen to transcend human capacity. According to this outlook, the very nature of the commandments is defined by transcendence and mystery. The mysterious essence of the commandments is unconnected to their practical application; as instructions, commandments and laws are clear. Were this not the case, it would be impossible to fulfill the commandments and keep the laws. Rather, the mystery refers to the strata of reasons, i.e., the purposes, for the commandments and laws.

This outlook expands the element of transcendence from the realm of metaphysical knowledge regarding the Divine—matters that are referred to

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as ‘The Account of the Chariot’ [*ma’aseh merkavah*] in Jewish tradition—to the very reasons for commandments. Not only is there an element of transcendence in the Divine, but even divine decrees are beyond human grasp. Echoing Augustine’s adage, ‘If you understood Him, it would not be God,’ this halakhic religiosity suggests that a commandment that is entirely comprehensible is not truly a commandment. I will refer to this outlook as *Halakhic Religiosity of Mystery and Transcendence*. “Halakhic”—because this religiosity is anchored in the fulfillment of the commandments, i.e., in the halakhic life; “Religiosity”—because it reflects a spiritual consciousness and disposition; “of mystery and transcendence”—because this religiosity is formed by the awareness that the reasons of the commandments and *halakhot* are beyond comprehension, i.e., transcendent.<sup>1</sup>

The challenge that lies before one who adopts Halakhic Religiosity of Mystery and Transcendence is not the few commandments that are difficult to understand. On the contrary, those commandments are especially beloved. Rather, the challenge lies with commandments that have clear reasons, some of which may even be spelled out in the Bible. This includes the overwhelming majority of commandments, including commandments considered to be rational [*mitsvot sikhlivot*], moral-social commandments [*bein adam le-haveiro*], and commandments whose reason is explicitly stated. Religious writers and thinkers who adopted this outlook, developed techniques of “elevating” reasons to the degree of transcendence (hereafter: “elevating reasons”) in order to explain how transparent commandments truly transcend comprehension. These are the primary techniques used by scholars to elevate reasons to transcendence:

- (a) *Tip of the iceberg* – all that is known about the reasons for some commandments, even that which is detailed in the Bible, is only a minute portion, like a drop in the sea, of the true reasons. All the commandments have other reasons, yet the vast iceberg of reasons is hidden from the eye.
- (b) *To please the ear* – the known reasons for the commandments, including those stated in the Bible, are not real, i.e., they

1 This section is based on Yair Lorberbaum, “Halakhic Religiosity of Mystery and Transcendence, Halakhic Religiosity of Obedience and Servitude, and Other Forms of Rejecting Reasons of the Commandments,” *Diné Israel* 32 (2018): 69–114 (Hebrew).

are not their true reasons. These known reasons are aimed at pleasing the ear of those who are reluctant or unable to accept the religious notion that the true reasons are loftier than human comprehension.

- (c) *Glimmers and flashes* – the known reasons are but weak reflections, or pale images, of the exalted, transcendent reasons that are hidden. A blurred trace of those reasons may appear through parables and symbols.

These elevating techniques are, at times, woven together. In some instances, they are combined with the concept of the decline of the generations [*yeridat ha-dorot*]: The reasons for the commandments were known only to sublime prophets like Moses and to unique sages like Rabban Yoḥanan ben Zakkai and Rabbi Akiva, and to select, indeed extraordinary individuals in our times. Alas, because of the limits and inferiority of our capabilities and the “sins of the generation,” those reasons are now beyond attainment – even for the wise and learned.

The notion of Halakhic Religiosity of Mystery and Transcendence developed at the end of the thirteenth century, and since then gradually became the central view of numerous scholars in the Jewish tradition. This view has had a dramatic impact: It shaped the religious nature of halakhic life; it has influenced the nature of Torah study, and particularly the study of Jewish law; and it has affected the approach to legal decision-making in Jewish law in that this halakhic religiosity triggered extreme legal formalism.

The claim regarding the emergence, development, and rise of Halakhic Religiosity of Mystery and Transcendence, and its implications for halakhic-religious life and for legal-halakhic discourse, invites insights from a number of disciplines: theology (particularly philosophy and Jewish mysticism, i.e., Kabbalah), Jewish law, philosophy of law (in general, and of Jewish law in particular), as well as social and intellectual history. In this article, I will briefly present different aspects of this argument. In section two I will distinguish between approaching the reasons as transcendent, as opposed to other bases for rejecting reasons for commandments and *halakhot*. These distinctions will clarify the spiritual outlook I have termed Halakhic Religiosity of Mystery and Transcendence with greater precision. In section three I will explain the widespread, indeed common-sense approach according to which reasons, i.e., purposes, are the life force of practical rules, especially legal rules, including halakhic rules. Explicating this approach will clarify why

reservations about reasons for commandments—in particular the outlook that sees reasons as beyond human comprehension—has many implications. In section four I will comment on the history of the different forms of the rejection of reasons for commandments and *halakhot* described in section two. I will argue that while different versions of rejections are present in post-biblical Jewish literature, the view that elevates reasons beyond human comprehension is absent from Jewish literature until the late Middle Ages. This outlook was developed by Rashba (R. Shlomo ibn Adret) at the end of the thirteenth century. In section five I will sketch an outline of his view. In section six I will present a collection of sources from different thinkers and halakhists from the late thirteenth century through the end of the nineteenth century. These authors—each in his own way—articulate the idea that reasons for commandments transcend understanding. I will present the sources, together with brief explanatory notes that focus on directions for further scholarly enquiry and research. In section seven I will demonstrate the implications of the development and the rise of Halakhic Religiosity of Mystery and Transcendence on the Jewish law discourse. In section eight I will discuss the kabbalistic context of the emergence of this religiosity, and in section nine I will conclude by considering its influence on legal formalism in Jewish law (*halakhah*).

## 2. Rejection of Reasons for Commandments: Other Views

In order to lay out and explicate the view that elevates reasons for commandments beyond human understanding, I will distinguish between this outlook and three alternative reservations or “rejections” of reasons.<sup>2</sup> These distinctions will assist in appreciating the complexity of Halakhic Religiosity of Mystery and Transcendence.<sup>3</sup>

### Halakhic Religiosity of Obedience and Servitude

According to this outlook, the essence of halakhic life is ‘accepting the yoke of Heaven,’ that is, blind, servile obedience and subjugation before the

2 In section four below, I will provide sources that exemplify these three additional rejections of reasons for the commandments.

3 This chapter is based upon Lorberbaum, “Halakhic Religiosity.”

decrees of God. According to this view, reasons harm the ideal of halakhic life because a person might fulfil the commandment *because* of its reason which is perceived as spiritually or ethically worthy, rather than ‘for its own sake’—that is, because God commanded. According to a common version of this halakhic religiosity, there is no barrier to knowing the reasons for commandments; the reasons are even necessary for Torah study and for legal decision making. Yet those very reasons harm practical halakhic living. According to this outlook, when a person fulfils a commandment, he must ‘forget’ the reason and blindly fulfill the commandment as a ‘decree of a King’, i.e., a decree with no reason. According to a strong version of this halakhic religiosity, since the commandments are aimed at constituting a consciousness of servitude of God and an acceptance of the yoke of Heaven, they are truly divine decrees with no purpose at all.

Halakhic Religiosity of Obedience and Servitude views fulfillment of commandments as acts of self-abnegation and as expressions of awe for the transcendent Divine. Such acts constitute an awareness of the unbridgeable chasm between God and humans. Gaining a consciousness of this unbridgeable chasm is the supreme religious value. In contrast, Halakhic Religiosity of Mystery and Transcendence understands the commandments as mystical practices that promote proximity and even communion with the Divine; a *corpus mysticum* in the words of Gershom Scholem.<sup>4</sup> By fulfilling the commandments the individual reaches supernal worlds, mysterious realms that are beyond comprehension.<sup>5</sup>

4 Gershom Scholem, *On the Kabbalah and Its Symbolism*, trans. Ralph Manheim (New York: Schocken Books, 1969), 95.

5 It is possible that according to certain iterations of Halakhic Religiosity of Mystery and Transcendence, an awareness of servitude while fulfilling commandments involves self-nullification for the sake of mystical communion. This may lead to a certain grasp of transcendent reasons. However, even such a version of Halakhic Religiosity of Mystery and Transcendence differs from Halakhic Religiosity of Obedience and Servitude because for the former the element of servitude is a means to the mystical end, whereas for the latter the element of servitude is the supreme religious value; hence it is an end in and of itself. In this context, I might point out that writers that combined these two forms of Halakhic Religiosity oscillate between the two religious ideals, not being aware of the deep differences between them.

## Theistic Voluntarism

A second rejection of reasons stems from theistic voluntarism (*voluntas*, Latin for ‘will’)—commandments are not sourced in divine wisdom, rather they are expressions of God’s will. Since God’s will is absolute, namely free from any external influence—even from logical or intellectual constraints—therefore the commandments do not have, and cannot have, reasons at all. The purposes that humans attribute to divine decrees (just like intelligible laws that they attribute to nature) are nothing more than an illusion fuelled by imagination. This, for example, is the approach of Maimonides’ adversaries in his discussion of the reasons for commandments in the *Guide of the Perplexed*.<sup>6</sup>

Halakhic Religiosity of Obedience and Servitude is rooted in theological anthropomorphism or anthropopathism, according to which God is the King on High who commands and enslaves with decrees that are not void of reasons. In contrast, Theistic Voluntarism is an abstract metaphysic according to which the commandments have no purpose at all.

## Jurisprudence of Rules

A third rejection of reasons stems from legal formalism and from what legal scholars label ‘jurisprudence of rules.’ According to this outlook, the quest for reasons, publicizing them, and especially introducing those reasons into the theoretical or practical legal discourse endangers the standing of the commandments, their validity, and the strict and clear requirement to fulfill them. In other words, promulgating the reasons of the commandment may lead to a flippant attitude towards them. This outlook sets out to hide the reasons for the commandments and laws from the public eye, reduces their normative weight, and invalidates their legal standing.

Three of the approaches that I described above reject reasons for theological considerations: the first outlook suggests that the reasons are beyond comprehension; the second outlook perceives reasons as undermining fulfilment of the commandment “for the sake of Heaven”; the third outlook views commandments as stemming from divine will, free from the constraints of reason. The fourth outlook—Jurisprudence of Rules—minimizes the import of reasons out of normative and legal considerations.

6 See Moses Maimonides, *The Guide of the Perplexed*, trans. Shlomo Pines (Chicago: University of Chicago Press, 1963), part 3, ch. 26.

I have detailed the distinctions between these “rejections”—in particular, the distinction between elevating reasons to the realm of transcendence as opposed to Halakhic Religiosity of Obedience and Servitude—because they will serve the discussion that follows, and because Jewish thinkers and halakhists (legal authorities) regularly integrate them, and scholars have tended to blur the differences between them.<sup>7</sup>

### 3. Reasons as the Essence of the Commandments

In order to appreciate the significance of the rejection of reasons—in particular, the rejection of elevating reasons to transcendence—I will offer some comments about the connection between legal rules, commandments, and *halakhot*, and their reasons. The following would be considered common sense for jurists who are aware of the jurisprudential nature of rules and for halakhists who do not reject reasons because of theological considerations.<sup>8</sup>

It is widely accepted that reasons are the life-force of practical rules. For every practical rule—personal, normative, or legal—there is a reason. The reason for the rule is its goal, namely its purpose. The purpose of a rule may be utilitarian, ethical, social, or spiritual/religious. The reason may be practical, and it may be symbolic. A rule may have a personal purpose, and it may serve society—including the efficient functioning of its legal system. In religious systems of law, and according to certain theological approaches, rules—meaning commandments and *halakhot*—may serve God. The purpose of rules may be intrinsic or instrumental, proximate or distal, direct or indirect. Rules are almost never arbitrary: their purpose may be good or, from the perspective of certain critics, bad, righteous or evil, rational or irrational. It is possible that a rule will have a number of reasons of different types. People may dispute the rules, and it is possible that during the life of a rule its purposes will change. Whatever the purpose of the rule is,

7 See, for example, the classic work by Isaak Heinemann, *The Reasons for the Commandments in Jewish Thought: From the Bible to the Renaissance*, trans. Leonard Levin (Boston: Academic Studies Press, 2008). Heinemann, who purposefully avoided exploring kabbalistic reasons for commandments, did not consider the distinctions between the different types of rejections.

8 This section is based on Yair Lorberbaum, “On Rules and Reasons in Legal and Halakhic Reasoning,” *Jerusalem Studies in Jewish Thought* 26 (forthcoming) (Hebrew).

practical rules—in particular, legal rules—are not arbitrary. Every practical rule that a person adopts, or that a social authority legislates, or that God commands has some reason that reflects its purpose, and acting according to the rule normally realizes that purpose. To wit, understanding a law is not just understanding that law's words and concepts, but rather, tracking its reasons, i.e., its purpose. According to this approach, which is perceived as common sense, reasons are the very essence of rules.

It is easy to see that reasons are the life-force of rules when we consider how humans follow rules. The reason that a person attributes to a rule—and in the present context, to a religious commandment—is essential in constituting the very nature of the person's conduct according to the rule. To illustrate the point: Maimonides thought that the reason for the prohibition against marring the beard (Lev 19:27) was “because it was a usage of idolatrous priests,”<sup>9</sup> and in order to shun foreign beliefs it is necessary to avoid practices of idolaters. In contrast, Kabbalists thought that the reason for the prohibition is rooted in the notion that humans are created in the image of God: Since God has a beard, and since Jews are commanded to imitate God, marring the beard is essentially marring the image of God.<sup>10</sup> For Maimonides, if one were to avoid marring the beard because of this reason then it would be nothing short of idolatry! Even though the physical movements—in this case, refraining from marring the beard—are identical, Maimonides and the Kabbalists were performing two entirely different acts. The difference between them is in their intentions, that are anchored in the reasons, namely the purposes, that they attribute to the commandment.

It is possible to separate laws, commandments, and halakhic rules from their reasons. In the typical case where a particular law applies there is nothing preventing people from acting in accordance with the language of the law without knowing its purpose. In most scenarios, obedience to the law—meaning acting in accordance with its literal, practical guidelines—will achieve the law's purpose even if the person is unaware of it, and even if

9 *Guide*, part 3, ch. 37, p. 544. See also Maimonides' *Sefer ha-Mitsvot*, negative commandments, nos. 34 and 43.

10 See *Zohar* 3:130a, 141a; Menaḥem Recanati, *Perush 'al ha-Torah* (Venice, 1523), Lev 19:26–29. See also Yair Lorberbaum, “On the Rejection of Reasons in Halakhic Discourse: The Debate on the Reason for the Prohibitions on Marring the Corners of the Head and the Beard,” *Jerusalem Studies in Jewish Thought* 25 (2017): 63–64 (Hebrew).



he thinks it does not have a purpose at all. Returning to the example just detailed: The purposes of avoiding marring the beard will be achieved even if the person does not know the reason for the prohibition, and even if the person thinks that the law is a decree with no reason at all. This separation between the law as a directive and its reason, which is often not explicitly stated, is, at times, indispensable for the efficient functioning of law. This is true, for example, in cases like guiding the behavior of large populations. Yet this separation is fictitious, for it is driven by practical purposes only. Philosophical inquiries from the last generation that have conceptualized the relationship between mandatory rules and their reasons have demonstrated that though a measure of separation is necessary for their efficient operation, reasons are the essence of rules. These insights are important not just on the conceptual level but also on the practical level: Both in law and in halakhah, the reasons for laws are effective in hard cases, namely cases that present exceptional circumstances.<sup>11</sup> I will return to this point in section seven below.

In contrast to the rational, common-sense, approach that reasons are the very essence of laws, there is a popular attitude (that can be found also amongst jurists), whereby the laws and reasons are entirely separated, i.e., that a legal rule, like a law of nature, does not have, and does not need to have a reason. This attitude unconsciously reifies the commandments while

11 Legal rules are designed for common cases, not for exceptional scenarios that seldom occur. A “hard” case raises the question as to whether a particular rule applies. For example: “Thou shalt not muzzle the ox when he treadeth out the corn” (Deut 25:4)—a difficult case arises when the ox is treading something that will harm the ox if eaten. In the common case, when the ox treads and eats something that is beneficial for the ox, the rule is “mechanically” applied. In exceptional circumstances, however, the reasons for the rule—both specific reasons and systemic reasons—together with reasons created by the exceptional circumstances, must be considered in order to decide whether to apply the rule or depart from it. In the example of the ox: the specific reason for the commandment (preventing distress from the animal who is working for you) must be weighed against reasons created by the exceptional circumstances (the pain the animal will suffer if its mouth is not muzzled), and against the systemic reasons (what might be the impact of a deviation from this rule on the legal system). The necessity of weighing considerations is, at times, complex and turns such circumstances into “hard” cases. For every legal rule there is the possibility of a “hard” case, and solving such cases requires consideration of the purpose of the rule. For a discussion of this jurisprudential topic, see Lorberbaum, “On Rules and Reasons.”

viewing attempts to suggest reasons as philosophic musing that is outside the boundaries of the legal system.<sup>12</sup>

The recognition that reasons are the essence of law sheds light on the nature of halakhic thinking in its formative period, prior to the emergence of the notion that reasons for commandments are beyond human comprehension. In another study, I demonstrated the strong link between commandments and their reasons in various sources, including the chapters of laws in the Bible, halakhic midrashim, Mishnah, talmudic discussions, and Maimonides' Code (*Mishneh Torah*).<sup>13</sup> This analysis is of critical importance for identifying changes that occurred in the fundamental infrastructure of halakhic life and of the halakhic discourse as a result of the rise of Halakhic Religiosity of Mystery and Transcendence.

It is well-known that Maimonides claimed that reasons are the essence of commandments. At the beginning of his discussion of the reasons for commandments in the *Guide of the Perplexed*, he emphasized that all the commandments—even those that are deemed by other writers as statutes without reasons [*hoq*, pl. *huqqim*]<sup>14</sup>—have reasons “and aims at some end, and that all Laws have causes and were given in view of some utility.”<sup>14</sup> This approach is not unique to rationalists like Maimonides; Naḥmanides, for instance, followed in his wake: “Now, this theory, categorically stated by the Rabbi [=Maimonides] concerning the commandments, that there is a reason for them, is indeed very clear. There is a reason, benefit, and improvement for

12 In section two above, I did not include reification of the commandments as a rejection of reasons because it is normally an unconscious, popular attitude; hence, it is not expressed in the literature. See Yair Lorberbaum, “Maimonides on Obligatory Rules and Systemic Reasons: A Study in The Laws of Rebellious Ones, Ch. 2” (in preparation). However, Rabbi Joseph B. Soloveitchik in his essay “Halakhic Man” wrote: “The Halakhah, which was given to us from Sinai, is the objectification of religion in clear and determinate forms, in precise and authoritative laws, and in definite principles. It translates subjectivity into objectivity, the amorphous flow of religious experience into a fixed pattern of lawfulness. To what may the matter be compared? To the physicist who transforms light and sound and all the contents of our qualitative perceptions into quantitative relationships, mathematical functions, and objective fields of force” (Joseph B. Soloveitchik, *Halakhic Man*, trans. Lawrence Kaplan [Philadelphia: JPS, 1983], 59).

13 Lorberbaum, “On Rules and Reasons.”

14 *Guide*, part 3, ch. 26, p. 507.

humanity in each of them.”<sup>15</sup> Maimonides and Nahmanides represent polar opinions in medieval Jewish thought: the former was an avowed rationalist, and the latter a kabbalist who fiercely opposed philosophy, particularly in its Aristotelean-rationalist strain. Nahmanides agreed with Maimonides that each commandment had “a reason, benefit, and improvement for humanity”—not because this was a philosophical imperative; rather, because it is common sense, namely the province of every intelligent person, and certainly the province of aware jurists. Indeed, for many Jewish thinkers through the generations, the majority of whom were not philosophers, this understanding was like an obvious foundational axiom. Maimonides himself emphasized the prevalence of this awareness when he wrote: “It is, however, the doctrine of all of us—both of the multitude and of the elite.”<sup>16</sup> All Maimonides did was to suggest a clear, conceptual formulation (that did, indeed, suit his outlook) for this approach. Scholars argued with each other regarding various types of reasons that could be suggested for commandments, and understandably regarding reasons for specific commandments. However, they all agreed that there is not, and cannot be, a commandment that is entirely arbitrary (*gezerat melekh* with no reason at all).<sup>17</sup> With this backdrop, Maimonides described people who rejected reasons:

There is a group of human beings who consider it a grievous thing that causes should be given for any law; what would please them most is that the intellect would not find meaning for the commandments and prohibitions. What compels them to feel thus is a sickness that they find in their souls, a sickness to which they are unable to give utterance and of which they cannot furnish a satisfactory account. For they think that if those

15 *Ramban (Nahmanides): Commentary on the Torah*, trans. Charles B. Chavel (New York: Shilo, 1976), vol. 5, p. 267, commenting on Deut 22:6.

16 *Guide*, part 3, ch. 26, p. 507.

17 According to Maimonides, commandments have three purposes: (1) To teach correct beliefs and remove wrong ones; (2) To inculcate virtues; (3) To remove exploitation and establish justice. Within this conceptual framework, Maimonides suggested reasons for all the commandments. Other sages thought that certain commandments have theurgic purposes, which Maimonides denied and described as idolatry. Nonetheless, Maimonides advocated a strict Jurisprudence of Rules; see *Guide*, part 3, ch. 34; Yair Lorberbaum, “Maimonides on the Institution of Law, Legal Formalism, and Decree of Scripture (*gezerat ha-katuv*),” *Bar-Ilan Law Studies* 29 (2013): 351–90 (Hebrew).

laws were useful in their existence and had been given to us for this or that reason, it would be as if they derived from the reflection and the understanding of some intelligent being. If, however, there is a thing for which the intellect could not find any meaning at all and does not lead to something useful, it indubitably derives from God; for the reflection of man would not lead to such a thing.<sup>18</sup>

In another study I demonstrated that Maimonides describes here Halakhic Religiosity of Mystery and Transcendence.<sup>19</sup> According to this “group of human beings,” if reasons for commandments are comprehensible, if their purposes are perceived as beneficial—even if it is for ethical and spiritual perfection—then they cannot be divine. According to those people, in order for laws to be divine, they must be beyond human attainment, that is, not “useful in their existence.” With caustic criticism, Maimonides described here a religiosity whose essence is a life defined by blind obedience to mysterious decrees of a transcendent God who is beyond comprehension. In the minds of these “human beings” the transcendence of the reasons for commandments is a metaphysical and epistemological fact, yet Maimonides deftly describes them as longing “that the intellect would not find meaning for the commandments and prohibitions.” In Maimonides’ eyes, expanding the transcendence and mystery from metaphysics to law is not just a local, theoretical error; rather, it is a categorical fallacy that constitutes a comprehensive, encompassing, false consciousness. A person who has internalized the outlook that the reasons of all the commandments—i.e., of the halakhic rules that affect every part of his personal and communal life—are beyond comprehension, such a person’s life is foundationally irrational. For an uncompromising rationalist like Maimonides—who saw the perfection of the intellect as the ultimate goal, and the final purpose of all the commandments—Halakhic Religiosity of Mystery and Transcendence is a mental illness.<sup>20</sup>

18 *Guide*, part 3, ch. 31, pp. 523–34.

19 Yair Lorberbaum, “‘What Would Please Them Most is that the Intellect Would Not Find a Meaning for the Commandments and the Prohibitions’: On Transcending the Rationales of the Commandments – A Close Reading of *The Guide of the Perplexed* III 31,” *Daat* 77 (2014): 17–50 (Hebrew).

20 By way of comparison, Maimonides described those who rejected reasons for commandments because of Theistic Voluntarism as an error in metaphysics, not as an illness. See *Guide*, part 3, ch. 26.

As we will see below, from the fourteenth century, and particularly in more recent times, many have been struck by this ‘mental illness.’

#### 4. Jewish Literature until the Late Middle Ages

Halakhic Religiosity of Mystery and Transcendence is absent from Jewish literature until the late Middle Ages. It does not appear in the Bible and in the literature of the Second Temple period. It is not to be found in the Midrash, nor in the Talmud, nor in the writings of the Geonim. It has no expression in the central works from the Medieval period. This ‘negative’ claim is based on analyzing an ensemble of biblical, post-biblical, talmudic, and medieval sources relating to reasons for commandments, some that are well-known and others that are less so. Analysis of these sources demonstrates that no writer expressed, even implicitly, the idea that reasons for commandments in general, or even reasons for particular commandments, transcend comprehension.<sup>21</sup>

The governing approach in the early polyphonic collections—the Bible and rabbinic literature—is the opposite: Biblical chapters that discuss commandments are rich in reasons, implicit and at times explicit. The book of Deuteronomy emphasizes that the quality, indeed the value of the commandments, is their worthy reasons that are clear to humans and even to the nations of the world: “Observe therefore and do them; for this is your wisdom and your understanding in the sight of the peoples, that, when they hear all these statutes, shall say: ‘Surely this great nation is a wise and understanding people.’”<sup>22</sup> Tannaitic literature emphasized that commandments are rich in reasons that should be sought out and are vital tools for developing the law. A few talmudic sources indicate that certain sages found particular commandments difficult to fathom. They did not, however, suggest that the reasons for those commandments were transcendent; rather, they saw those commandments as decrees-with-no-reason (*huqqah, gezerat melekh*). From all these bodies of literature the rejection of reasons because of Theistic Voluntarism is also missing. (Maimonides’ opponents regarding reasons for commandments were apparently Islamic theologians from the Ash‘ari school, who believed that God is pure will.)

21 For a discussion of these sources, see Lorberbaum, “Halakhic Religiosity of Mystery and Transcendence”; idem, “What Would Please Them.”

22 Deut 4:6; see also Deut 30:11–14.

In talmudic literature and in the writings of eminent Medieval authors and commentators, we can find expressions of rejection of reasons due to Halakhic Religiosity of Obedience and Servitude (in its soft form). Thus, for example, the statement in the Midrash: “A person should not say I do not want to wear *sha’atnez* [mixture of wool and linen] ... [I do not want] to eat pig ... [I do not want] to have prohibited sexual relations”—namely, a person should not accept the commandments because he is convinced of their good reasons, rather—“Say: I want! [But] what can I do, for my Father in Heaven commanded me thus ... The result is that the person withdraws from the sin and accepts upon himself the Kingdom of Heaven.”<sup>23</sup> This type of religiosity is also at the root of a well-known statement in the Talmud: “He who is commanded and fulfils [the commandments] is greater than he who is not commanded but fulfils”<sup>24</sup>—because the one who is not commanded cannot fulfill the commandment purely because of the divine command.

In the talmudic and medieval literature we can also find rejection of reasons out of concern that they will lead to a flippant attitude toward the commandments. Such a rejection of reason stems from halakhic-educational considerations subsumed under the Jurisprudence of Rules. For example, in the Babylonian Talmud: “Why were the reasons of biblical laws not revealed? – Because in two verses, reasons were revealed, and they caused the greatest in the world [King Solomon] to stumble.”<sup>25</sup> The “two verses” refer first to the prohibition against a king having multiple wives in order to ensure that he does not turn to idolatry. As the Talmud explains: “Thus it is written: ‘He shall not multiply his wives to himself’ (Deut 17:17), whereon Solomon said: ‘I will multiply wives yet not let my heart be perverted.’ And we read: ‘When Solomon was old, his wives turned away his heart’ (1 Kgs 11:4).” The second verse refers to the prohibition against a king having a large stable to prevent a return to Egypt, the land of horses, whose influence is bad: “Again it is written: ‘He shall not multiply to himself horses’ (Deut 17:17), concerning which Solomon said, ‘I will multiply them, but will not cause [Israel] to return [to Egypt].’ Yet we read: ‘And a chariot came up and went out of Egypt for six [hundred shekels of silver]’ (1 Kgs 10:29).” This midrash was paraphrased by Maimonides at the very end of *The Book of the Commandments* (*Sefer ha-Mitsvot*), an enumeration of the 613 commandments,

23 *Sifra*, *Qedoshim* 10:22, my translation.

24 *B. Qidd.* 31a.

25 *B. Sanh.* 21b.

where he emphasizes the political-educational need to hide reasons: “[T] here is not even one Commandment which has not a reason, and a cause [...] yet there is a [political-educational – YL] necessity that these reasons will not be perceived by [i.e., known to – YL] the multitude.”<sup>26</sup> Let us not confuse these sayings and statements with the view that the reasons of the commandments are beyond comprehension.<sup>27</sup>

## 5. Rashba and the Establishment of Halakhic Religiosity of Mystery and Transcendence

Rabbi Shlomo ben Avraham ibn Aderet (Rashba, Barcelona 1235–1310) was the first to develop the idea that the reasons for commandments—all the commandments—are ‘secrets of the Torah’ (*sitrei torah*) that are beyond human comprehension. Rashba established the approach I have termed Halakhic Religiosity of Mystery and Transcendence. He was the premiere author of responsa in the Middle Ages and one of the greatest jurists and talmudic commentators of all time. He was also the most important kabbalist in his generation. In a few responsa he expressed his outlook regarding the reasons of the commandments.<sup>28</sup> The crux of his approach was that divine wisdom is hidden in all the commandments, which is their profound reasons. Yet this

26 Moses Maimonides, *Sefer ha-Mitsvot*, negative commandments, no. 365, in *The Commandments*, trans. Charles B. Chavel (London: Soncino, 1967), vol. 2, p. 330. Another expression of hiding reasons for educational purposes appears in *b. ‘Avod. Zar.* 35a: “When an ordinance is made in Palestine, its reason is not revealed before a full year passes, lest there be some who might not agree with the reason and would treat the ordinance lightly.”

27 Saadia Gaon distinguished between commandments of reason and commandments of revelation. The second category does not include an element of transcendent reasons, nor is it an expression of Halakhic Religiosity of Obedience and Servitude. Similarly, the approach of Judah Halevi in his *Kuzari* is not grounded in transcendent reasons. See, at length, Lorberbaum, “Halakhic Religiosity of Mystery and Transcendence,” 105–6 (Saadia Gaon), 107–10 (Judah Halevi).

28 *She’elot u-Teshuvot ha-Rashba*, 1, no. 94 (=Dimitrovsky edition, Jerusalem: Mosad Harav Kook, 1990, no. 30, pp. 83–88); *She’elot u-Teshuvot ha-Rashba: He-Ḥadashot mi-Ketav Yad* (Jerusalem: Machon Yerushalayim, 2005), no. 366, pp. 236–37, excerpts cited below Source 1. For a detailed discussion of these responsa, see Yair Lorberbaum, “‘Thy Commandment is Exceedingly Broad’ (Ps 119:96): R. Shelomo Ibn Adreth and the Formation of Halakhic Religiosity of Mystery and Transcendence,” *Mahshevet Yisrael* 2 (2020) (BGU) (Hebrew).

lofty wisdom, the wisdom of Kabbalah, is beyond the comprehension of flesh and blood. Only a few, sublime sages may be able to perceive glimmers or flashes of that wisdom, as it sparkles through the commandments. Kabbalists that are of such a stature are, in the words of Rashba, “the minority of a minority,” and he was doubtful whether there was anyone in his generation who was able to perceive those sparkling indicators. In his responsa, Rashba integrated various techniques of elevating reasons: The one I termed above *Glimmers and flashes* is woven together with the one I labelled *Tip of the iceberg*, and both of them are intertwined with the view that divine wisdom is only within the intellectual-spiritual capacity of very few. The divine reasons are hidden from an average Jew, even from scholars, due to ‘decline of generations,’ and because of *hester panim*, namely the withdrawal of God from the world as a result of human frailty and sin.

One of Rashba’s responsa regarding the reasons of the commandments is an epistle sent to the Jewish communities of Languedoc and Provence who leaned towards philosophical enquiry. Philosophers in these communities cited the talmudic saying: “Great matters mean the *ma’aseh merkavah* [Account of the Chariot], small matters, the [legal-talmudic] discussions of Abaye and Rava”<sup>29</sup>—and, they claimed that the commandments have no theoretical-philosophical value. Their intellectual efforts were invested in the ‘Account of the Chariot,’ which they interpreted as Aristotelian metaphysics taught in foreign sources (“the books of the sages of the nations”). According to their view, knowledge of God, i.e., closeness to the Divine, can only be achieved by delving into these sources. Against this view Rashba proclaimed: “And this is the matter of the ‘Chariot’ – the issues that are alluded to in the commandments of the Torah, they are ‘The Chariot (*hem hem ha-merkavah*)’.”<sup>30</sup> Not “works of philosophy and nature of the wise men of the nations” will provide humans with knowledge of God but only contemplation of the reasons of commandments, for those reasons are ‘The Chariot’; namely, the wisdom of God. Yet according to Rashba, divine wisdom that is hinted at in the commandments—which, for him is the deepest layer of the divine realm—is beyond the reach of humans. Not Moses, Rashba opined, nor even the ministering angels will attain them, for these reasons are God’s essence; hence they cannot be grasped (see below Source 1).

29 B. *Sukkah* 28a.

30 *She’elot u-Teshuvot ha-Rashba He-Ḥadashot*, no. 366, pp. 236–37.



Together with elevating the true, profound reasons for the commandments to transcendence, Rashba marginalized their rational, mundane reasons. According to Rashba, these reasons—including ethical, utilitarian and symbolic reasons, and even reasons that are explicitly stated in the Torah—are nothing more than a drop in the sea, “a point on the upper celestial wheel,” when compared to their sublime reasons. These transcendent reasons cast a shadow over the accessible, mundane reasons, to the extent that these simple reasons cannot be considered purposes of the commandment at all.

In a short responsum, Rashba critiqued the ethical reason that Maimonides provides for the prohibition against slaughtering an animal and its offspring on the same day.<sup>31</sup> According to Maimonides, this prohibition is an expression of compassion for the animal, since by nature animals are concerned about the survival of their offspring. In his critique, Rashba targeted plain reasons grounded in ethics or utilitarian considerations.<sup>32</sup> At the end of his short responsum, Rashba declared: “Do not heed the reasons of the commandments that the Rabbi [that is, Maimonides] of blessed memory wrote ... And besides the honor of the Rabbi of blessed memory, one should not pay attention to these reasons,” and he concludes: “And blessed is the One who knows the reasons for His decrees”—referring to God and alluding to the kabbalistic reasons that are the only means of explaining the commandments.

In his responsa on the reasons for the commandments, Rashba included a critique of the kabbalists of Girona—Rabbi Ezra and Rabbi Ya‘aqov bar Sheshet—who claimed to be able to speculate on kabbalistic reasons. Rashba also critiqued Naḥmanides who gave voice to the plain reasons, and hinted at the secrets hidden in the commandments. These two foundations—describing the kabbalistic reasons of the commandments as transcendent and marginalizing their plain reasons—were intertwined in Rashba’s thought, and distinguished him from kabbalists who preceded him. Moreover, if according to the Girona kabbalists and Naḥmanides the reasons for commandments are but a portion of Kabbalah, according to Rashba they are the very crux and the depth of this esoteric lore. These three elements gave rise to a new religious sensitivity: Halakhic Religiosity of Mystery and Transcendence.

Rashba adopted an extremely esoteric approach towards Kabbalah, much more than his teacher Naḥmanides. He attempted to camouflage

31 See Lev 22:28.

32 *She’elot u-Teshuvot ha-Rashba*, 4, no. 253 (=Dimitrovsky edition, no. 29, p. 82).

and hide the kabbalistic grounding of his approach to reasons. A reader unfamiliar with Rashba's style who looks at his responsa on reasons (as well as other ideational, non-halakhic writings that he penned) will not identify their kabbalistic nature. Indeed, it is possible to read those writings without any link to Kabbalah. In his polemics against Christians, Rashba suggested a 'philosophical' version of transcendent reasons, without any indication of kabbalistic underpinnings.<sup>33</sup> It would appear that his writing style was a factor that assisted in the reception of his views on the reasons of the commandments by thinkers who were not kabbalists, and even by thinkers who opposed Kabbalah.

Rashba crystallized his approach towards the transcendent nature of reasons, an approach that included minimizing the importance of plain reasons, on three fronts: First, against radical Jewish philosophers who explained commandments as allegories or who understood commandments to be divine decrees with no reason at all. Second, against kabbalists who claimed to understand and unveil the true reasons for the commandments. Third, as a response to external critique—Christian theologians who explained the commandments as allegories, thereby uprooting their practical meaning, or who claimed that the commandments are void since their reasons are no longer relevant. Yet despite any apologetic motivation, it is clear that Rashba—and others who followed in his wake—believed this view regarding reasons to be correct.

## 6. Elevating Reasons in the 13th to 19th Centuries

The view that reasons are beyond human comprehension, and the religiosity that sprouts from it, was embraced by thinkers, kabbalists, philosophers, preachers, and halakhists throughout the generations. This view was adopted by Rashba's students, and in turn by their students, and spread to others. Because of the popularity of the works of these writers, this approach became widespread. What follows is a selection of sources that demonstrate the elevation of reasons to a transcendent plane. The selection is taken from rabbis who were active from the late thirteenth century through the seventeenth century.

33 See Yair Lorberbaum, "R. Shlomo ibn Aderet's Treatise against the Christians: A Reevaluation," *Zion* 84 (2019): 59–86 (81–85) (Hebrew).

1. **Rabbi Shlomo ben Avraham ibn Aderet (Rashba; Barcelona, 1235–1310):**

“And even the commandments, that he will see from the obvious reasons that the Torah gave, that those reasons are the ultimate intent of [the commandments] – [those reasons] are not the purpose. Rather, that reason is true, but it is like a tiny aspect [*nequdah*] of [the commandment’s] benefits and intentions. And the hidden matters that are alluded to in [the commandment], to those which God, may He be blessed, graced, have no limit. And this is what David said: ‘I have seen an end to every purpose, but your commandment is exceedingly broad’ (Ps 119:96)” (*She’elot u-Teshuvot ha-Rashba*, 1, no. 94; Dimitrovsky edition, Jerusalem: Mosad Harav Kook, 1990, no. 30).

“And this is the matter of the ‘Chariot’ – the issues that are alluded to in the commandments of the Torah, they are ‘the Chariot’ (*hem hem ha-merkavah*). ... that even the ministering angels will not attain them. And this is that which is written: ‘Man know not the price thereof; Neither is it found in the land of the living’ (Job 28:13). And ‘the living’ – alluding to the ministering angels. And this is what God may He be blessed responded to Moses when he requested: ‘Show me, I pray Thee, Thy glory’ (Exod 33:18), God said: ‘Thou canst not see My face, for man shall not see Me and live’ (ibid., v. 20), and our rabbis of blessed memory explained: ‘Man shall not see Me’ and not even ‘the living’ – alluding to the ministering angels, because His essence and His unity cannot be fully attained” (*She’elot u-Teshuvot ha-Rashba He-Ḥadashot Mi-Ketav Yad*, Jerusalem: Machon Yerushalayim, 2005, no. 366, pp. 236-37).

“Do not heed the reasons of the commandments that the Rabbi [Maimonides] of blessed memory wrote ... And beside the honor of the Rabbi of blessed memory, one should not consider these reasons. And blessed is the One who knows the reasons for His decrees” (*She’elot u-Teshuvot ha-Rashba*, 4, no. 253; Dimitrovsky edition, no. 29).

2. **Bahya ben Asher ibn Halawa (Spain, 1255–1340):** “And I heard in the name of Maimonides of blessed memory, an explanation of this verse: ‘The secret matters belong to the Lord our God,’ meaning: The secrets of the Torah that are hidden and the reason for the commandments—they are for God on high, and if a person merits that his ear will perceive a trace of them, by knowing the root of the commandment and its essence as per that which is hidden in it ...” (Commentary on the Torah, Deut 29:25, s.v. *ha-nistarot la-hashem eloheinu*).

3. **R. Joshua ibn Shuaib (ca. 1280–ca. 1340):** “And I heard from my teacher Rashba of blessed memory ... that he questioned the wise who were masters of our Torah: How can they want to explain the commandments with rational explanations according to the foundations of our Torah, because the venerable commandments are beyond the intellect?!” (*Derashot ‘al ha-Torah*, Kraków, 1573; repr. Jerusalem, 1969, pp. 39a–b).
4. **Rabbi Joseph Yaavetz (Lisbon, ca. 1440–Italy, 1508):** “[The Qabbalah] is the loftiest wisdom ... and this is knowing the reasons for the commandments about which we pray each day: ‘And illuminate our eyes with your Torah’ ... about which [King David] said: ‘Open my eyes, that I may behold wondrous things from your Torah’ (Ps 119:18) ... This is the infinite wisdom, because all our hopes are only for this success, through it we will be attached to His great name ... There is hope for our end and there is reward for our deed, for our Craftsman [Creator] is trustworthy to make known the secrets of the Torah to the soul that is linked to the commandments of the Torah and its study while it is still alive, after the body has separated” (Commentary to *m. Avot*, ch. 9, Warsaw, 1880, p. 30b).
5. **Rabbi David ibn Zimra (Radbaz; Spain 1479–Safed 1573):** “And one should know, even though we write reasons for commandments according to the secret path, we do not reject the reason that is clear according to the intellect or the reason that is written explicitly in the Torah; rather, this one and this one are included in it [the commandment]. ... And they [the commandments] have other reasons and we will not attain them until the righteous teacher comes, speedily, in our days. And cherish this principle, for you need it in all the kabbalistic works” (*Metsudat David*, Żółkiew, 1866, commandment no. 117).
6. **Rabbi Moses Cordovera (Safed, 1522–70):** “And I do not desire to deal extensively with refuting the reasons for the commandments that those who thought to give a reason for commandments on their own and from their own head according to the human mind, which seems to me a futile endeavor. And after you have merited and entered the gates that I have brought you into, you will truly see the invalidity of that knowledge ... Because there is no human intellect that reaches any purpose, how much more so that he is [un]able to invent on his own any commandment or [divine] service. And for this [reason] Torah conduct is imperative for Israel, through it the Holy One blessed be He revealed the conduct

of humankind over all its aspects and the unifying intentions that are appropriate for [divine] worship" (*Shi'ur Qomah*, Warsaw, 1833, ch. 44, pp. 47–48).

7. **Rabbi Moses Isserles (Rama; Poland, 1520–72):** "And the author of *Aqeda[t Yitshaq]*, *parashat huqqat* extensively dealt with this, and demonstrated two facets [of the issue], the hidden and concealed reason and the revealed reason ... For all the commandments have two [sorts of] reasons and purposes. First, that which is the intention to set right the human-ephemeral life, to the most appropriate extent possible. And second, from the fact that He intended to leave us [i.e., usher us] by them with matters of eternal spirituality [to the afterlife]. And behold regarding the first purpose we should investigate the reasons for the commandments ... but regarding the second aspect – the purposes and reasons [of the commandments] are hidden, since we are prevented from comprehending the purpose, as it says 'Nor has the eye seen' etc. (Isa 64:3), it is also necessary that portrayal of the path that leads to this is folly for us, because how can one portray the path to a place that is not known and is not recognized at all. For this [reason] all the commandments are called '*huqqim*'" (*Torat ha-'Olah*, sec. 3, no. 65, Prague, 1570, 96b).
8. **Rabbi Yeshayahu Halevi Horowitz (Shelah, 1558–1626 or 1630):** "And know, my children—may their Creator protect you and sustain you—that it should not enter your mind regarding that which I mention in these pamphlets about secrets of the commandments and the prayers, that I have descended to the depth of the matter, for it is not even like a drop in the vast sea, because those secrets have no end and conclusion. A person, if he will live a thousand years twice over (following Ecc 6:6), he will not ascend and reach the essence [purpose] of one commandment to its depth and root and the root of its root" (Shelah, *Toledot Adam*, preface).

From the perspective of the transcendence of the reasons for commandments, these texts and others that I will cite below, speak for themselves. Each one of them—in particular those that have yet to be considered by scholars – are worthy of in-depth analysis, both in the context of the world view of the author and on the backdrop of the author's environment and era. For the current presentation, a few notes and comments will suffice.

As indicated above, Rashba (Source 1) was apparently the first to express the view that the hidden matters that are alluded to in the commandments are divine wisdom, which is beyond attainment. In any event, Rashba's

imprint on the prevalence of this idea for generations to come is apparent. His explanation of Psalms 119:96—‘I have seen an end to every purpose, but your commandment is exceedingly broad’—as an expression of the notion that reasons for commandments are hidden matters, became the catchphrase of those who were attracted to Halakhic Religiosity of Mystery and Transcendence. His approach was adopted by his numerous students: R. Yom-Tov Al-Ashvili (Ritva) expressed it in his *Sefer ha-Zikkaron*, and even attributed it to Maimonides!<sup>34</sup> R. Bahya b. Asher, in his eclectic and popular commentary to the Torah (Source 2), explained that the suggestive verse, ‘The secret matters belong to the Lord our God’ (Deut 28:29), refers to the reasons for commandments, that “they are for God on high” and only select people merit to “perceive a trace of them.” In his sermons, R. Joshua ibn Shuaib restated the opinion of his teacher that reasons for commandments are loftier than human comprehension, and he rejected rational reasons (Source 3). The term “venerable commandments” [*mitsvot nikhbadot*] was used to allude to the kabbalistic reasons for the commandments.

Through the agency of Rashba’s students, this approach was adopted by Spanish rabbis in the fourteenth century.<sup>35</sup> In his sermons, R. Nissim of Girona (Ran) developed a non-kabbalistic version of this approach.<sup>36</sup> His student,

- 34 See Yair Lorberbaum, “*Sefer Ha-Zikkaron* of Rabbi Yom Tov ben Avraham Alashvili (Ritva): Philosophy, Kabbalah, Law” (in preparation). R. Bahya, apparently following Ritva, also attributed this notion to Maimonides.
- 35 In the generations following Rashba, his responsa discussed herein were cited by preachers who were kabbalists and by preachers who were not kabbalists: R. Joshua ibn Shuaib, R. Meir Eldabi (1310–60) in his *Shevilei Emunah*, R. Samuel ben Meshulam Gerondi in his *Sha’ar Reishit Hokhmah* (6:7; Yaakov S. Spiegel, “*Sha’ar Reishit Hokhmah [he-’Arokh] ve-Sha’ar ha-Refu’ah [he-’Arokh] le-Rabbi Shmuel ben R. Meshulam*,” in *Studies in Memory of the Rishon Le-Zion* R. Yitzhak Nissim, ed. Meir Benayahu [Jerusalem: Yad Harav Nissim, 1984], 3:199–307, at 250–51); and R. Meir ibn Gabbai in his *Avodat Qodesh* (part 4: *Sitrei Torah*, ch. 1).
- 36 *Derashot ha-Ran*, no. 11. The transcendence of reasons is at the root of the well-known words of Ran: “Our Torah is unique amongst the laws of the nations of the world with regard to commandments and laws—their idea is not state-building at all, rather they lead to the application of divine bounty for our nation, and His attachment to us ... Though [the commandments] are distant from rational reasoning” (*Derashot ha-Ran*, ed. Feldman [Jerusalem: Machon Shalem Yerushalayim, 1973], 191). Ran was influenced here by Judah Halevi’s *Kuzari*, and even more so by Rashba’s responsa; see Lorberbaum, “Rashba.” In his exposition, Ran offers a legal realism that is close in spirit to transcendence of reasons; see Yair Lorberbaum, “Halakhic Realism,” *Diné Israel* 30 (2015): 9–78.

R. Ḥasdai Crescas—the great fourteenth-century Jewish philosopher—also expressed the idea.<sup>37</sup> The approach of Rashba that reasons for commandments are the essence of kabbalistic wisdom though they are beyond human comprehension, echoes in the words of R. Yosef Yaavetz, who was expelled from Portugal (Source 4). The Pious Yaavetz (as he was called), a student of Isaac Abarbanel, was not a kabbalist and appears not to have known much about Kabbalah.<sup>38</sup> Nonetheless, the notion of transcendent reasons that took root amongst the sages of his generation impressed him. According to Yaavetz, the reward intended for the soul that cleaves to commandments while it is alive is knowing their reasons in the world to come, i.e., when the soul is no longer attached to the body.

The approach whereby the reasons for commandments are loftier than human understanding was the province of many rabbis in the sixteenth century. R. David b. Zimra (Radbaz), who had been born in Spain, was a jurist and a kabbalist who served at the helm of Egyptian Jewry. In his final years, Radbaz settled in Safed. His work *Metsudat David* is dedicated to reasons for commandments, and there he suggests that any attainable reasons are nothing more than the tip of the iceberg and a blurred reflection of the real reasons (Source 5). For “[the commandments] have other reasons” that are deeper, “And we will not attain them until a righteous teacher comes, speedily, in our days.” Radbaz then added: “And guard this principle, for you need it in all the kabbalistic books”—meaning, this is a foundational principle regarding reasons in all kabbalistic works. The kabbalist R. Moses Cordovero (Source 6) was a colleague and neighbor of Radbaz in Safed. His writings include a critique of many authors, Radbaz among them, who wove plain and rational reasons into their writings. According to Cordovero, suggesting a reason “according to the human mind” is “a futile endeavor . . . Because there is no

37 R. Matityahu Ha-Yitshari (Saragossa, 14<sup>th</sup>–15<sup>th</sup> centuries), a student of Crescas, wrote: “I heard from our master, our teacher R. Ḥasdai, of blessed memory, that according to Truth [the commandments] have no purpose . . . for it is beyond the measure of the earth, and David said ‘I have seen an end to every purpose’ (Ps 119:96), meaning for everything that has a purpose I have reached its end and have comprehended it. ‘But your commandment is broad’ (ibid.), that means—I have not comprehended it all.” This language echoes Rashba’s words (Source 1).

38 See Jacob Katz, “Halakhah and Kabbalah as Competing Disciplines of Study,” in *Divine Law in Human Hands: Case Studies of Halakhic Flexibility* (Jerusalem: Magnes Press, 1998), 65–66.

human intellect that [with regard to reasons for commandments] reaches any purpose."<sup>39</sup> R. Moses Isserles—the great sixteenth-century codifier—voiced a version of the approach: The ultimate purpose of commandments is unattainable, and that which is known is nothing more than the tip of the iceberg. In his theoretical work *Torat ha-‘Olah* (Source 7), he adopted the notion of transcendent reasons from R. Yitshaq Arama (1420–94). Like Rashba, Isserles identified the reasons for all the commandments with transcendental divine wisdom: Just as the divine essence is not known to humans, so too the humans are unable to grasp the reasons for God’s commandments. Isserles’ theoretical approach in general, and specifically his views on reasons, were influenced by Maimonides. Nonetheless—as Jonah Ben-Sasson has showed—Isserles held that the commandments have a foundation of hidden reasons that are their ultimate justification.<sup>40</sup> Jacob Elbaum has shown that many rabbis in sixteenth-century Ashkenaz (Germany) believed that the Torah—and in particular the commandments—have a plain meaning and a secret one. This secret, kabbalistic stratum eclipses the plain meaning, and it is beyond human comprehension.<sup>41</sup> R. Yeshayahu Halevi Horowitz (Shelah)—whose father was a student of Isserles—in his popular *Shenei Luhot Ha-Berit*, explains that the “secrets of the commandments and the prayers” that he outlined in the book are “not even like a drop in the vast sea, because those secrets have no end and conclusion” (Source 8). This approach is part of his ethical legacy that he bequeathed to his children, and as is the wont of preachers he phrased it with exaggerated language: “A person, if he will live a thousand years twice over, he will not ascend and reach the essence [purpose] of one commandment to its depth and root and the root of its root.”

The most extensive and developed formulation for this view can be found in the writings of R. Yehudah Loew b. Bezalel (Maharal, 1520–1609),

39 Yosef Ben Shlomo, “The Attitude of R. Moses Cordovero to Philosophy and the Sciences,” *Sefunot* 6 (1962): 185–96 (191) (Hebrew).

40 Jonah Ben-Sasson, *The Philosophical System of R. Moses Isserles* (Jerusalem: Israel Academy of Sciences and Humanities, 1984), 239–40 and note 25 (Hebrew).

41 Jacob Elbaum, *Openness and Insularity: Late Sixteenth Century Jewish Literature in Poland and Ashkenaz* (Jerusalem: Magnes Press, 1990), 352–55 (Hebrew). It appears to me that this outlook is connected to *yir’at hora’ah*—jurists’ hesitance and fear from issuing rulings—that was characteristic of German rabbis in that period, including Maharil and R. Israel Isserlein. See Yedidya Alter Dinari, *The Rabbis of Germany and Austria at the Close of the Middle Ages: Their Conceptions and Halacha-Writings* (Jerusalem: Bialik Institute, 1984), 34–40 (Hebrew).



particularly in his work *Tiferet Yisra'el* that is dedicated to *Shavu'ot*—the festival of the giving of the Torah—and focuses on the commandments. In this work, Maharal repeatedly claims that the commandments are based on eternal, divine intellect that is beyond earthly rationale, and therefore beyond human attainment. The commandments—that is, what is appropriate for humans—are drawn from the metaphysical structure that is incomprehensible to humans. According to Maimonides, humans come close to the Divine through intellectual contemplation. In contrast, Maharal understood that humans come close to the Divine through deed; namely, by fulfilling the commandments whose reasons are beyond comprehension.<sup>42</sup>

In the eighteenth and nineteenth centuries, this approach that commandments transcend understanding, continued to spread. A sample of sources from this period demonstrates this trend:

9. **Rabbi Elijah of Vilna (1720–97):** “Each limb has a particular quality because the [limbs] are begot from the emanations [*sefirot*], and each one [of the limbs] has an internal and an external aspect. Internally, the [mystical] essence is active, while externally the [physical] limbs [are active]. And so it is with the 613 commandments: each commandment is a particular act and each commandment has a particular intent, and therefore commandments without intent are like a body with no soul. And since the day that the Temple was destroyed the wellsprings of wisdom have been blocked, and we have remained as a body with no soul, until a spirit from up high will be bestowed upon us; it will revive the body and the soul” (*Liqqutim me-ha-Gra*, printed in *Bi'ur Zohar: Yahel Or*, Vilna, 1882, p. 19).

42 See Rivka Schatz, “The Maharal’s Conception of Law as an Antithesis of Natural Law,” *Daat* 2–3 (1978–79): 147–57 (Hebrew). According to Schatz, Maharal developed his approach in response to contemporary notions of Natural Law of Hugo Grotius and Jean Bodin, and not just in response to Maimonidean rationalism. See also David Sorotzkin, *Orthodoxy and Modern Disciplinary: The Production of the Jewish Tradition in Europe in Modern Times* (Tel Aviv: Hakibbutz Hameuchad, 2011), 135–200 (Hebrew); idem, “The Theology of the Different (Ha-Nivdal): The Maharal of Prague and the Emergence of Early Modern Jewish Orthodox Thought,” *Kabbalah* 14 (2006): 263–328 (Hebrew). According to Sorotzkin, Maharal expressed the outlook that the commandments come from the entirely free divine will. Yet Maharal does not adopt the approach of Theistic Voluntarism (nor the approach of Halakhic Religiosity of Obedience and Servitude). Rather, Maharal adopts a version of Halakhic Religiosity of Mystery and Transcendence.

10. **Moses Mendelssohn (1729–86):** “Weak is a person’s eye, and short is his sight! Who can say ‘I have come to the Temples of God, I have understood His counsel, investigated His thoughts and their purpose’? I am allowed to surmise but not to determine; not to act according to my determination ... One should be punctilious about them [the commandments] according to the strictness of the law as it is expressed” (Jerusalem/Tel Aviv, 1947, pp. 137–38).
11. **Rabbi Shneur Zalman of Liady (ca. 1745–1812):** “And that [commandment] whose reason has not been revealed—it is loftier, because reasons for commandments have not been revealed, and in the world to come—if God wills it—they will be revealed. ... Meaning, that with regard to a commandment that one does not comprehend its reason – that is loftier; whereas if one comprehends a reason and gains pleasure—that is only a level of ‘backside’ [*aḥorayim*]” (*Torah Or, Sermons on Genesis and Exodus*, Brooklyn, 2011, *Ḥayyei Sarah*, p. 17a).
12. **Rabbi Ḥayyim of Volozhin (Lithuania, 1749–1821):** “Because reasons for commandments to their fullest extent have not yet been revealed to any person in the world, even to our master Moses of blessed memory, only to Adam before the Sin, and that is the Preserved Wine from the grapes of the Six Day of Creation (*b. Ber.* 34b) and the light that served on the first day through which Adam looked and saw by it to the end of the world (*b. Ḥag.* 12a)” (*Nefesh ha-Ḥayyim*, Bnei Brak, 1989, sec. 1, ch. 22, pp. 74–75).
13. **Ḥatam Sofer (Hungary, 1762–1839):** “It appears to me according to that which R. Baḥya wrote at the end of *parashat Nitsavim* in the name of Maimonides on the verse ‘The hidden matters are for God our Lord’ (Deut 29:28), ... that we should not doubt the commandments, for they all have a transcendent secret, and who has access to the secret of God? And nevertheless it is incumbent on every person to find some reason for each commandment, and to explain to him[self] the matter, as [Maimonides] of blessed memory did in the book *Guide for the Perplexed*. But Heaven forbend to change anything on account of the reason that he has explained—and that is ‘The hidden matters are for God’; meaning, hidden reasons for the commandments are [the province] of the Lord our God” (*Derashot Ḥatam Sofer*, Bukovina, 1929 [photo reproduction Jerusalem, 1974], p. 10b).

14. **Rabbi Ya‘aqov Lorberbaum, the Gaon from Lissa (1770–1832):** “...Most reasons for the commandments are obscure even for those who comprehend, and humans know not their measure ... For we are obligated to fulfil His commandments and His statutes [*huqqim*] even though they are hidden of reason, because the Exodus justifies that we accept His decrees and His statutes even though they are hidden of reason” (*Commentary to the Passover Haggadah: Ma‘aseh Nissim*, Jerusalem, 1991, pp. 35–37).
15. **Rabbi Nathan of Nemirov (1780–1844), citing Rabbi Naḥman of Breslov (1772–1810):** “Because in truth the reasons for commandments are hidden and sequestered and it is impossible to attain them with human intellect. Rather, we must fulfill them with faith alone, believing in God and in His servant Moses, as all of Israel simply believes without the ways of wisdoms and foolishness of the scholars ... as King Solomon says in Ecclesiastes [7:23]: ‘I said I will get wisdom, but it was far from me’. [We] believe in God – may He be blessed – and in His commandments, and do not seek any reason at all, for this is a principle of faith” (*Liqqutei Halakhot, Hilkhhot Nefillat Apayim* 4:19).
16. **Tsemaḥ Tsedeq (1789–1886), Rabbi Menaḥem Mendel Schneersohn:** “And the truth is that all the commandments are called statutes [*huqqim*] because the reasons that are revealed before us are entirely insufficient, and are not indicative of the true reasons as they are above. Meaning, that in our eyes they are merely statutes—decrees of a king; that is to say that thus is His will with no comprehensible reason, and He said that their existence is nevertheless exceedingly pleasant for Him, because this level of will is His will, may He be blessed, for that is loftier than what could be comprehended by any creation in the world. And even in the World of Emanation [*‘olam ha-atsilut*] it is not comprehensible. [...]. And indeed, the truth is that the principle that our rabbis of blessed memory wrote ‘commandments require intent’ (*b. Ber.* 13a)—that is, to intend that thus the Creator of the world commanded us, and [the person] should know that with this act he fulfills [God’s] commandment and His lofty will—that this will is the source of life, and it is infinite. Even though the person does not know what is this intention, ‘for My thoughts are not your thoughts’ (Isa 55:8). And that which is slightly understood according to the aforementioned approach, it is truly an allusion and a mere drop from the ocean and [less] than that, for it is really immeasurable.

For behold, a human who is of physical form cannot comprehend the spiritual. And behold our master Moses of blessed memory is already in the Garden of Eden for three thousand years, and each hour he goes from strength [to strength] in the depth of comprehension of the reasons for the commandments. And despite this, it says about him: 'I have seen an end to every purpose [but your commandment is exceedingly broad]' (Ps 119:96) – and the commandment itself is exceedingly broad because it has lofty level after lofty level" (*Derekh Mitsvotekha*, p. 82).

Many further examples could be added to this sample selection.<sup>43</sup> Even from an initial perusal of these sources, together with the texts I cited above, two things are apparent. First, for all of the authors cited, reasons are the essence of commandments. They implicitly negate reification of the commandments and laws; meaning, they are well aware that the commandments are not disconnected from their reasons. Second—and more importantly in the present context—from the beginning of the fourteenth century and in particular during the eighteenth and nineteenth centuries, the notion of transcendent reasons crosses regions and time periods, ideologies and movements. We find the approach amongst bona fide halakhists (some of whom were leading decisors of their day), kabbalists, philosophers, and preachers; hasidic masters from various courts, as well as their critics [the *mitnaggedim*]; local rabbinic leaders and rabbis who ran educational institutions that attracted students from afar. The idea did not skip leaders of Haskalah (Jewish Enlightenment), and—as we will see later—even Reform theologians.<sup>44</sup> Some of these thinkers went as far as portraying this view as a principle of faith.

All these writers shared a common ideological, religious, and theological kernel. To borrow words from Maimonides' harsh critique: "What would please them most is that the intellect would not find meaning for the commandments and prohibitions." That is, they all adopted a version of Halakhic Religiosity of Mystery and Transcendence. Despite this commonality, the writers belong to

43 In the interest of brevity, I have not cited texts from the second half of the fourteenth century through to the middle of the fifteenth century. I have also skipped many writers from the seventeenth century. See, however, section seven below for seventeenth century halakhists who wrote glosses on *Shulḥan 'Arukh*.

44 The texts from the eighteenth to the nineteenth centuries are from authors from central and eastern Europe. Further research is tasked with examining the presence and prevalence of Halakhic Religiosity of Mystery and Transcendence in this period in other regions, including North Africa, the Ottoman Empire, and Yemen.

varying ideational schools and ideological camps; some were at loggerheads with others. These differences explain variations of the view that the reasons of the commandment are beyond comprehension.

To be sure, the words of these writers should be further investigated with regard to their broader views on other issues, and in the context of their specific region and time period. Such investigation is essential, particularly regarding the last group of texts I cited, which have barely been examined, and certainly have not been considered from the vantagepoint of the present study. Questions that should be investigated include:

- (a) What are the arguments of the writer for viewing reasons as transcendent? What are the theological underpinnings of the writer's approach? Is it linked to Kabbalah or is the approach based on acceptance of the kabbalistic worldview 'from the outside,' namely, without actively being involved in this mystical world? If the view is not linked to Kabbalah, upon which theology is it based?
- (b) What are the techniques of the writer to elevate reasons to transcendence: tip of the iceberg, blurred reflections, please the ear? Are there others? How does the writer relate to plain reasons and to reasons that are explicitly stated in the Torah—does he dismiss them or does he accept and discuss them?
- (c) Is the writer conscious of his theology? Are his words mere repetitions of accepted creeds? It should be noted that even approaches that seem to be expressed by well-worn turns of phrase, or that are politically expedient to use, indicate how this religiosity may have taken root.
- (d) What is the relative significance of the notion in the worldview of the writer? Is the writer consistent in his usage? For instance, does a writer who expresses Halakhic Religiosity of Mystery and Transcendence give reasons for commandments elsewhere in his writings? Does he distinguish—consciously or unconsciously—between different types of commandments? For example, between ritual commandments and ethical commandments; or between commandments that define the relationship between humans and God, and inter-personal commandments?
- (e) What is the literary genre where the view is voiced? Is it a public homily, a theoretical work, a kabbalistic treatise, halakhic responsa or other legal monograph? Might there be differences between an approach articulated in a work dedicated to commandments, as opposed to incidental remarks that appear in other works? In the former, can we

expect a fuller presentation that considers a wider range of issues and gives a more developed outlook?

- (f) Does the writer include in his worldview rejection of reasons based on Halakhic Religiosity of Obedience and Servitude? In such cases, we should examine which of the two approaches is more central to the writer's worldview. As noted above, such integration is common among writers (see, e.g., Source 13 above).
- (g) Does the writer reject reasons because of normative considerations ('Jurisprudence of Rules')? If so, is elevating reasons a way to convey normative-halakhic considerations? This jurisprudence of rules is particularly relevant to writers who served as jurists. Seeing reasons as transcending human comprehension may be a judicial tool, rather than a philosophical position.
- (h) These last questions trigger a more basic issue: Since elevating reasons is a useful tool in promoting conservatism, it is possible that—in some cases—this approach is nothing but a political and educational tool aimed to protect Jewish law from the winds of change? In other words, even though many writers state that reasons are beyond human comprehension and do so with deep conviction, it is possible that some of them are promoting a jurisprudence of rules dressed as a theology.

A detailed and thorough discussion of these questions is beyond the present scope. I will limit myself to a few brief notes on the collection of texts from the eighteenth and nineteenth centuries that were cited above.

R. Elijah of Vilna, a great legal mind and a prominent kabbalist of his generation, linked the commandments to the limbs of the body, seeing them as isomorphic to the Godhead, i.e., to the divine emanations (*sefirot*) (Source 9).<sup>45</sup> He emphasized that "commandments without intent are like a body with no soul," namely just as the soul is the essence of the body, so too reasons are the soul, i.e., the essence, of the commandments and the *halakhot*.<sup>46</sup> Alas, from when the Temple was destroyed and the Holy Spirit no longer communicated with humans, "the wellsprings of wisdom have

45 The structure of this theosophic outlook can be found in the writings of Naḥmanides, and after that in the Zohar and in Lurianic Kabbalah; see Yair Lorberbaum, "Naḥmanides' Kabbalah on the Creation of Man in the Image of God," *Kabbalah* 5 (2000): 287–326 (Hebrew).

46 It is possible that R. Elijah refers here to kabbalistic intentions (while fulfilling a *mitsvah*), which have an impact on the divine realm. Yet—as the continuation

been blocked, and we have remained as a body with no soul,” since the reasons are beyond comprehension. These words are paraphrased from Rashba’s responsum (of which an excerpt was cited above, Source 1): “Due to the sins of the generation, the wellsprings of wisdom have been blocked ... and the house of our holiness and glory has been destroyed, the place from which prophecy and wisdom is drawn”—prophecy and wisdom that are essential for knowing reasons. Rabbi Ḥayyim of Volozhin was a student of R. Elijah of Vilna and the founder of the flagship Yeshiva, *’Ets Ḥayyim*. His work *Nefesh ha-Ḥayyim* is considered foundational in the Yeshiva world (and, according to some, a popularization of R. Elijah of Vilna’s Kabbalah). R. Ḥayyim maintained that “reasons for commandments to their fullest extent have not yet been revealed to any person in the world, even to our master Moses of blessed memory, only to Adam before the Sin.” This approach was also embraced by other heads of the Volozhin Yeshiva.<sup>47</sup>

Rabbi Shneur Zalman of Liady, the founder of Chabad Hasidism, the author of the seminal hasidic work *Tanya*, and an important jurist, emphasized in his sermons that the reasons of the commandments are beyond our reach, and he declared that they will become apparent only to select people and only in the world to come. To the extent that a person attains a measure of comprehension of the plain reasons of some commandments, and perhaps even glimpses of the kabbalistic reasons—this is nothing more than a pale reflection of the true, lofty reasons (Source 11). R. Shneur Zalman implies that when a person does *not* understand a reason, he is actually on a loftier level of the divine world.

R. Shneur Zalman’s grandson, Rabbi Menachem Mendel Schneersohn of Lubavitch (*Tsemaḥ Tsedeq*), follows a similar path. In his work on reasons for commandments, *Derekh Mitsvotekha*, he emphasized that reasons are

of the passage makes clear—the content of those intentions are their reasons, i.e., their theurgic purposes.

47 See, for example, the words of the Netsiv of Volozhyn, Rabbi Naftali Zvi Yehuda Berlin (1816–93), *Ha’amek Davar*, Lev 27:19, s.v. *u-shmartem et kol ḥuqqotai*; Deut 23:7. For the words attributed to Rabbi Ḥayyim Halevi Soloveitchik of Brisk, see Rabbi Shagar [Shimon Gershon Rosenberg], *In His Torah He Meditates: The Study of Talmud as a Quest for God*, ed. Zohar Maor (Alon Shevut: Machon Kitvei ha-Rav Shagar, 2008), 73–93 (Hebrew); Shai Wozner, “The Father of the Yeshiva Method of Study—R. Hayim Halevi of Brisk,” in *The Gdolim: Leaders Who Shaped Israeli Haredi Jewry*, ed. Benjamin Brown and Nissim Leon (Jerusalem: Magnes, 2017), 152–75 (170) (Hebrew).

unattainable because “a human who is essentially material cannot comprehend the spiritual.” The reasons that he outlined in his work, are “truly an allusion and a mere drop from the ocean, and more than that, for they are really immeasurable” (Source 16). Like Rashba and many others, Tsemaḥ Tsedeq turned to the verse, “Your commandment is exceedingly broad” (Ps 119:96), and explained that “it has lofty level after lofty level.” Since the reasons are beyond human comprehension, people should view commandments as the unfettered desire of God. Tsemaḥ Tsedeq was not referring here to Theistic Voluntarism—after all he dedicated an entire work to reasons for commandments that are, admittedly, the mere tip of the iceberg of reasons—but rather he offered, Tsemaḥ Tsedeq offered a version of Halakhic Religiosity of Obedience and Servitude.

The transcendence of reasons is not just the province of Chabad hasidic masters; leaders from other hasidic circles also adopted this approach. Rabbi Nathan of Nemirov, the student and the scribe of Rabbi Naḥman of Breslov, wrote in the name of his teacher that the transcendence of the reasons of the commandments, i.e., the human inability to comprehend them, is a “principle of faith” (and a matter that has been repeatedly explained in the teachings of R. Naḥman) (Source 15). R. Nathan’s compilation, *Liqqutei Halakhot*, is a vast work (printed in eight volumes). In this work, R. Nathan recaps the teachings of R. Naḥman, suggesting reasons rooted in Kabbalah and Hasidism for the *halakhot* in each section of *Shulḥan ‘Arukh*. Yet alongside the reasons, he emphasizes:

For even this intention [that is, the reason – YL] can certainly not be completely attained. How much more so, and even more so, because there are seventy facets (*panim*) to the Torah, and each and every facet is made up of thousands and myriads of explanations without end. And certainly there is no righteous person on earth who can fully comprehend one commandment for ‘The measure thereof is longer than the earth, and broader than the seas’ (Job 11:9), and as it is written, ‘I have seen an end to every purpose, but your commandment is exceedingly broad’ (Ps 119:96).

Immediately following these words, the passage continues:

And because of this it is forbidden to conclude any law from the [mystical] intentions; that is, that a person should derive a law or practice from the intentions [even to be stringent] because



this is a severe prohibition, as I heard from our teacher, of blessed memory ... and just as our teacher of blessed memory hinted in a number of places that a person should not rely on his own wisdom at all."<sup>48</sup>

Halakhic Religiosity of Mystery and Transcendence can be found not only in works from the Chabad and Breslov schools, but in the writings of other hasidic thinkers from a variety of hasidic courts, from early masters through later groups like Gur.<sup>49</sup>

In the sermons of Ḥatam Sofer, the great central European halakhist of the turn of the eighteenth century, the notion that all the commandments have a lofty secret appears over and over again. In the passage cited above he brings the words of R. Baḥya in his commentary to the Torah (Deut 28:29; Ḥatam Sofer followed R. Baḥya who referred to Maimonides): "The hidden matters," that is, the reasons, "are for God our Lord" alone (Source 12). "And who," wondered Ḥatam Sofer, "has access to the secret of God?"<sup>50</sup> To be sure, "it is incumbent on every person to find some reason for each commandment" as Maimonides did in the *Guide*, yet these reasons are nothing more than the tip of the iceberg or to please the ear. They are not the real reasons, and they certainly do not have legal force or weight: "Heaven forbend to change anything on account of the reason that he has explained."<sup>51</sup> Similarly, R. Ya'aqov Lorberbaum, the Gaon from Lissa, author of *Netivot ha-Mishpat* on *Shulḥan 'Arukh* (Source 14), wrote in his commentary to the Pesach Haggadah, which is laced with references to Maimonides' *Guide*, in a moderate tone: "Most reasons for the commandments are obscure even for those who comprehend," a reference to Kabbalists.

The notion of transcendent reasons appears even in the writings of scholars of the Jewish Enlightenment (Haskalah). Thus Moses Mendelssohn wrote: "Who can say 'I have come to the Temples of God, I have understood

48 *Liqutei Halakhot, Yoreh De'ah, Hilkhhot Bekhor Behemah Tehorah*, 2:8–9.

49 See, for instance, Rabbi Menahem Naḥum of Chernobyl (1730–97), *Me'or 'Enayim* (Slavuta, 1798), 87d, *parashat Huqqat*, s.v. *Vaydabber*; Rabbi Yehudah Leib Alter, *Sefat Emet, Shemot, parashat Mishpatim* 1874; *parashat Mishpatim* 1875.

50 Regarding Ḥatam Sofer and Kabbalah, see Maoz Kahana, "The Chatam Sofer: A Decisor in his Own Eyes," *Tarbiz* 77 (2007): 519–56 (Hebrew); idem, *From the Noda BeYehuda to the Chatam Sofer: Halakha and Thought in Their Historical Moment* (Jerusalem: Shazar, 2015) (Hebrew).

51 See below, n. 64.

His counsel, investigated His thoughts and their purpose?!' (Source 10). Even though Mendelssohn identified the reasons for commandments with transcendent, divine wisdom, his motivation may have been educational. Mendelssohn was concerned lest delving into reasons lead to a disregard for commandments. The fact that an open-eyed rationalist like Mendelssohn could describe reasons in terms of transcendence is indicative of just how embedded the notion had become. A similar stance regarding reasons was expressed in the commentary of Mendelssohn's colleague, Naphtali Hirz Wessely, in his commentary on Leviticus.<sup>52</sup>

The mysterious element of the commandments was also voiced by Jewish Reform theologians. Paul, and Christian theologians, particularly Protestants, over the generations, claimed that Judaism was a legalistic religion that lacked spirituality, and that the divine mystery which is the essence of religion is hidden in the heart alone. In response to these claims, Leo Baeck (Germany, 1873–United States, 1956) wrote:

There are two experiences of the human soul in which the meaning of his life takes on for a man a vital significance: the experience of mystery and the experience of commandment; or, as we may also put it, the knowledge of what is real and the knowledge of what is to be realized. ... And what is peculiar to Judaism is that these two experiences have here become one, and are experienced as one, in a perfect unity. ... From the one God come both mystery and commandment, as one from the One, and the soul experiences both as one. Every mystery means and suggests also a commandment; and every commandment means and suggests also a mystery. ... This unity of both experiences in the human soul constitutes Jewish piety and Jewish wisdom; the meaning of life reveals itself here in this form.<sup>53</sup>

52 Naphtali Hirz Wessely (Hamburg-Berlin-Hamburg, 1725–1805): "One should not seek the reasons for commandments for they are Divine laws ... They depart slightly from the human understanding, but this does not mean that we do not have permission to explain the allusions to explanations for commandments that are hinted at in the Bible itself" (Commentary to Leviticus).

53 Leo Baeck, "Mystery and Commandment," in *Judaism and Christianity: Essays*, trans. Walter Kaufmann (Philadelphia: JPS, 1958), 169–86 at 171, 173, 174 (emphasis mine).

In the eyes of Leo Baeck, the mystery of the commandments is the essence of Judaism and its message to the world. As Alexander Altmann showed, Baeck was influenced here by the Jewish mystical tradition.<sup>54</sup>

Versions of the notion of transcendent reasons—intertwined in a variety of ways with Halakhic Religiosity of Obedience and Servitude—can be found in the writings of thinkers and halakhists from the twentieth century, including leading figures, such as R. Shimon Shkop, R. Abraham Isaac Hakohen Kook, Ḥazon Ish, R. Eliyahu Dessler, R. Moses Feinstein, R. Joseph B. Soloveitchik, and many hasidic masters.<sup>55</sup> Some of them reiterate the words of those who preceded them, dating back to the fourteenth century; others articulate the ideas in their own way.<sup>56</sup>

Halakhic Religiosity of Mystery and Transcendence, at times woven together with Halakhic Religiosity of Obedience and Servitude, is also present in modern Hebrew literature, such as the works of S.Y. Agnon. These ideas are also present as unconscious ideologies disguised as interpretive claims

- 54 Alexander Altmann, “Leo Baeck and the Jewish Mystical Tradition,” Leo Baeck Memorial Lecture 17, *Leo Baeck Institute Yearbook* 1 (1956) (=idem, *Faces of Judaism: Selected Essays* [Tel Aviv: Am Oved, 1983], 160–74 [Hebrew]).
- 55 Abraham Isaac Hakohen Kook, *Eyn Ayah* (Jerusalem, 1995), *Berakhot*, vol. 1, ch. 5, sec. 104; idem, *Ma'amarei ha-Ra'ayah* (Jerusalem, 1986), 540. Regarding R. Shimon Shkop, see Shai Wozner, *Legal Thinking in the Lithuanian Yeshivah: The Heritage and Works of Rabbi Shimon Shkop* (Jerusalem: Magnes, 2016) (Hebrew). Regarding Ḥazon Ish, see B. Brown, *The Hazon Ish: Halakhist, Believer and Leader of the Haredi Revolution* (Jerusalem: Magnes, 2011), 100–23 (Hebrew). Regarding R. Eliyahu Dessler, see his *Mikhtav me-Eliyahu* (London: Hever Talmidav, 1955–1997), vol. 1, p. 117. Regarding R. Joseph B. Soloveitchik, see his *The Halakhic Mind: An Essay on Jewish Tradition and Modern Thought* (New York: Seth Press, 1986). Regarding R. Moshe Feinstein, see his *Iggerot Moshe* (New York: M. Feinstein, 1959–85), *Orah Hayyim* IV, no. 49.
- 56 We should not confuse thinkers who view reasons as transcendent with thinkers who purely adopt a religious outlook of obedience and servitude, such as Yeshayahu Leibowitz, Eliezer Goldman, and R. Aharon Lichtenstein. See Yeshayahu Leibowitz, *Emunah, Historiyah, va-'Arakhim* (Jerusalem: Akademon, 1982), 57–58, 61; Eliezer Goldman, *Expositions and Enquiries: Jewish Thought in Past and Present*, ed. Avi Sagi and Daniel Statman (Jerusalem: Magnes, 1996), 306–15 (Hebrew); Aharon Lichtenstein, “Ha-Gishah ha-Musagit—ha-Briska'it be-Limmud Torah: Ha-Shitah va-'Atidah,” *Netuim* 18 (2013): 9–38, where he integrates halakhic religiosity of mystery and transcendence with that of obedience and servitude.

in academic Jewish studies.<sup>57</sup> The limitations of the current presentation prevent me from delving into these thinkers and phenomena here.

## 7. Transcendence of Reasons, Torah Study, and Ruling on Matters of Halakhah

Beside the direct influence on the religious nature of halakhic life, the ascendance of Halakhic Religiosity of Mystery and Transcendence also impacted Torah study and decision-making in Jewish law.

Regarding Torah study: Given that reasons cannot be comprehended, and considering that delving into reasons of laws is central to any legal system, what then is the nature of Torah study? Is the pursuit limited to understand the meaning of the words of the commandments and *halakhot*? Perhaps Torah study should focus on learning the commandments by rote? Or perhaps it should be directed to the technical structuring of halakhic rules in codices? Torah study might also involve conceptual analysis of central legal-halakhic concepts.<sup>58</sup> Yet still one wonders: Are such pursuits truly possible without any recourse to the purposes of the commandments and *halakhot*?

Regarding decision-making in halakhah: In regular cases, law is applied in an almost mechanical way that does not require judicial discretion. Such cases

57 See, for example, "Ha-Derasha," in *Takhrikh shel Sippurim* (Tel Aviv: Schocken Books, 2011), 73, where Agnon cites the words of Shelah quoted above (Source 8). See Elchanan Shilo, *Kabbalah in the Works of S.Y. Agnon* (Ramat Gan: Bar-Ilan University Press, 2011), 30 (Hebrew). Agnon, who skilfully described Jewish life in eastern Europe, noticed the centrality of Halakhic Religiosity of Mystery and Transcendence in that world. It is possible that the transcendence of reasons is at the root of Franz Kafka's enigmatic story, "Before the Law," included in his novel, *The Trial*. Appearances of religious trends in modern Hebrew literature and in Judaic scholarship are worthy of analysis, though they are beyond the present scope. For now see Lorberbaum, "On Rules and Reasons."

58 Rashba was aware of this aspect of transcendent reasons. In one responsum (Source 1) he wrote that Rabban Yoḥanan ben Zakkai "looked at the reasons of the Torah [that is, the Chariot] and merited to contemplate them," whereas "Abbaye and Rava and other sages of Israel that delved into explaining commandments, like the sages of the Mishnah and the talmudic sages after them, attempted to explain the order of their matter and their performance." In other words, the sages of halakhah over the generations only dealt with lexical, technical, and organisational aspects of the commandments and the halakhic rules – as if it was possible to disengage them from their reasons.

would not be seen as adjudicating. Decision-making in law involves judicial discretion applied in “hard cases” that involve exceptional circumstances. In such cases the judge or decisor must deviate from the language of the legal-halakhic rules to their reasons and balance these reasons with the reasons that are created by the exceptional circumstances of the case at hand. Yet if the true reasons for the rules are unknown, decision-making can only be based on the letter of the law, or upon “formal analysis” of abstract halakhic concepts. Hence, elevating reasons to transcendence entails extreme legal formalism and halakhic conceptualism.<sup>59</sup> As indicated above, conceptual legal analysis—be it in the course of Torah study or halakhic adjudicating—that is detached from the purpose of the law, is a pursuit that is empty of content. In the words of Felix S. Cohen, this is “transcendental nonsense.”<sup>60</sup>

To understand the potency of Halakhic Religiosity of Mystery and Transcendence to transform the halakhic discourse it is useful to return to the distinction between elevating reasons and Jurisprudence of Rules. Sticking to the language of the law because of the transcendent nature of the reasons is profoundly different from sticking to the language of the law because of normative, political, and educational considerations. Halakhists for generations—perhaps dating back to the end of the talmudic period—tended towards strict legal formalism due to Jurisprudence of Rules. This trend was pushed to the extreme once Halakhic Religiosity of Mystery and Transcendence took root. Two elements account for this change. First, Jurisprudence of Rules does not deny knowledge of reasons for commandments and laws. In hard cases, even a strict halakhic formalist will depart from the language of the law and consider its purposes, as well as other relevant reasons. In contrast, a halakhist who views reasons as beyond human attainment, will always stick to the law’s language and concepts because he has no access

59 See, for example, Lichtenstein, “Ha-Gishah ha-Musagit—ha-Briska’it”; Shagar, *In His Torah He Meditates*.

60 Felix Cohen, “Transcendental Nonsense and the Functional Approach,” *Columbia Law Review* 35 (1935): 809–49. Cohen’s terminology is particularly appropriate for conceptual approaches to Jewish law that are grounded in legal realism; see Lorberbaum, “Halakhic Realism.” For jurists and decisors of halakhah, solving hard cases by mechanically applying the language of the law or by applying legal concepts is an expression of attributing decisive weight to systemic reasons; see Lorberbaum, “On Rules and Reasons.” The question remains: Can Torah study and decision-making in halakhah rely solely on systemic reasons? Does not such a reliance neutralize the commandments from their content?

to its reasons. Second, Jurisprudence of Rules typically has a gap between what appears to be a strict application of the rules and the unstated, hidden reasons that may actually undergird the decision. Indeed, legal formalists—including halakhists—prefer the discourse of rules, which entails technical claims and conceptual formulations. Yet, at times, this is nothing more than rhetoric that window-dresses decisions rooted in an unstated balance between various reasons. In such cases, the jurist appears to mechanically apply the law, but in truth he is selecting a particular rule or suggesting a conceptual formulation that suits the result and that truly stems from the hidden balancing of reasons. This veiled process of considering reasons is not possible for a jurist who believes that reasons for the commandments are beyond human understanding.

The impact of Halakhic Religiosity of Mystery and Transcendence on halakhic discourse is decisive, in part because halakhists of the past centuries have adopted this outlook. Most of the writers whose words have been cited above were prominent, indeed key, halakhists in their own generation and beyond: Rashba, Ritva, Ran, Radbaz, Rema, R. Elijah of Vilna, Ḥatam Sofer, and the Gaon from Lissa. Others, such as Shelah, and R. Shneur Zalman of Liady, were known primarily as thinkers, though they too were important halakhists.<sup>61</sup>

61 Regarding R. Shneur Zalman of Liady as a halakhist, see Levi Cooper, "Towards a Judicial Biography of Rabbi Shneur Zalman of Liady," *Journal of Law and Religion* 30 (2015): 107–35; idem, "Mysteries of the Paratext: Why did Rabbi Shneur Zalman of Liady Never Publish his Code of Law?" *Diné Israel* 31 (2017): 43–84. Maharal could also be added to these sages. On Maharal as a halakhist, see Tamir Granot, "Meta-halakhah, Pesiqah ve-Darkhei Ḥinnukh be-Mishnat ha-Maharal mi-Prague," in *Al Derekh ha-'Avot*, ed. Amnon Bazak et al. (Alon Shvut: Tevunot, 2001), 488; Shlomo Glicksberg and Shlomo Kassierer, "The Halakhah and Meta-Halakhah Codification Debate: Rabbi Chaim ben Bezalel and the Maharal of Prague," *Jewish Studies* 29 (2013): 157–91 (Hebrew). Maharal's halakhic decisions are particularly formalistic; see, for example, his note on *Tur*, *Yoreh De'ah*, sec. 270. *Tur* cites his father (R. Asher b. Yeḥiel, the Rosh) that "in our days, when books are to be found there is no obligation to write a Torah scroll, rather [the obligation involves] writing other books that are studied." In his annotations to *Tur*, Maharal writes: "And his words are not clear, because who dares send a hand to uproot a positive commandment from the Torah. And if we come to give a reason for commandments and to replace the [commandments], how will the Torah be upheld?" (Maharal, *Ner Mitsvah*, 26; idem, *Gevurot Hashem*, 200; Glicksberg and Kassierer, "Halakhah and Meta-Halakhah Codification Debate," 185). Maharal's reticence from giving reasons is jurisprudential, though

In a recent study, I tracked an ongoing debate among central halakhists regarding the nature and status of Maimonides' reason for the prohibition against marring the corners of the head and shaving beards. In his *Book of the Commandments*, his *Code*, and his *Guide* Maimonides argued that the reason for the prohibition was in order not to mimic idol worshippers, especially their priests, and thereby avoid their beliefs. The dispute regarding this reason can be traced from Rabbi Ya'akov, the author of *Arba'ah Turim* ("Tur") who was active in Spain in the generation after Rashba, through to the modern period. The issues were considered by leading halakhists of each generation such as Rema, Karo, Bah, and Taz. They began with short local comments on Maimonides' reason for these prohibitions, immediately turning to principled comments on the status of reasons in halakhah. Tur, for example, criticized Maimonides for the very idea of providing a reason for the law, arguing that since the Torah does not provide a reason, there is no way to know what the reason is. And Tur immediately added: "And we do not need to seek a reason for commandments because they are decrees of the King upon us; we will not even know their reason."<sup>62</sup> In response, Rema wrote: "Heaven forbid that our master [Tur] should suspect upright people like Maimonides"—as if Maimonides held that the reason he suggested should have legal weight—"For we have not found any wise person in Israel who has such a belief." All these halakhists rejected in principle the notion of imputing reasons for commandments. More importantly, they precluded granting legal force to such reasons. Their reservation was based on the view that reasons for the commandments are loftier than human understanding—namely on Halakhic Religiosity of Mystery and Transcendence—that for some of them (like Tur) was integrated with Halakhic Religiosity of Obedience and Servitude.<sup>63</sup>

In order to understand the impact of Halakhic Religiosity of Mystery and Transcendence on Jewish law, it is also useful to examine how halakhists related to the talmudic query whether *darshinan ta'ama di-qra*, namely, the jurisprudential question: To what extent are explicit and non-explicit reasons

it is rooted in theology (see above section 6 and Gad Gizbar, "Halachic Method and Talmudic Commentary of the Maharal of Prague" [Ph.D. diss., Bar-Ilan University, 2007]) (Hebrew).

62 *Tur, Yoreh De'ah* 181.

63 See Lorberbaum, "On the Rejection of Reasons," 45–102, and the sources cited therein.

for biblical laws taken into consideration? Examining the formation of the talmudic pericopes and the history of their interpretation, the following development becomes apparent: In mishnaic times (and seemingly also in talmudic times), the rabbis imputed reasons for commandments and formulated laws on the basis of those reasons. It would appear that all the rabbis agreed that biblical reasons do affect the practical formulation and application of laws. The anonymous editors of the Babylonian Talmud took a different approach. They presented a number of legal disputes between two sages of the Mishnah, Rabbi Shimon and Rabbi Yehudah, as principled arguments on the matter of reasons affecting law. According to these anonymous editors, R. Shimon held that reasons should affect law, while R. Yehudah held that they should not. The talmudic rule of thumb is that in disputes between R. Yehudah and R. Shimon – the law follows R. Yehudah's opinion. It should be noted that these rabbis did not, in fact, dispute the issue of reasons affecting law: In every place that the talmudic editors assign the opinion that reasons should not affect law to R. Yehudah, an examination of the pericope reveals that R. Yehudah's opinion is based on a reason that he imputes to the commandments which was different from the reason imputed to them by R. Shimon.<sup>64</sup> The editors of the Babylonian Talmud artificially created a dispute between tannaitic sages and assigned their preferred opinion to the sage whose opinion is considered normative. Thus they created a change in halakhic discourse: From Jurisprudence of Reasons that characterised halakhah in its formative period, to Jurisprudence of Rules that was to henceforth exemplify legal discourse.

The rise of Halakhic Religiosity of Mystery and Transcendence (and the strengthening of Halakhic Religiosity of Obedience and Servitude) in the late Middle Ages, brought with it a new interpretation of the talmudic pericope whether *darshinan ta'ama di-qua*. The issue is seldom discussed, yet in the few places where it is addressed the debate between R. Shimon and R. Yehudah takes a theological-epistemological turn. All medieval discussants accept that the halakhah follows R. Yehudah, but his opinion is recast as a rejection of the ability to trace the reasons for commandments because they are beyond human comprehension. R. Shimon—whose (attributed) opinion is ultimately rejected—is recast as someone who tends to investigate reasons for commandments. R. Shimon's approach, however, is not in order

64 Ibid., appendix.



to determine law; rather, he strives to enhance Torah for he too knows that reasons are nothing more than the tip of the iceberg or to please the ear.<sup>65</sup>

One could add numerous examples of the impact of Halakhic Religiosity of Mystery and Transcendence on halakhic discourse. If, indeed, reasons are the soul of legal rules, i.e., they are the primary building blocks of legal reasoning, then we can understand how the effect on halakhah of viewing reasons as transcendent will be widespread and varied. The influence, direct and indirect, of this religiosity on the study of the various fields of Torah, on decision-making in the different spheres of halakhah, and on halakhic thought in general, is a matter for further, extensive research.

## 8. Kabbalah and Transcendent Reasons

Halakhic Religiosity of Mystery and Transcendence developed in the womb of Kabbalah. Kabbalah is also the habitat of most of the views that elevated reasons of the commandments across the generations. Many of the writers who I cited above were kabbalists or believed in the kabbalistic world view. Their views regarding the transcendence of reasons were rooted in this theosophical thought structure. The rise and spread of this halakhic religiosity was intertwined with the development and diffusion of Kabbalah.

Having said that, it must be added that Halakhic Religiosity of Mystery and Transcendence and Kabbalah are not identical. There are two reasons for this: First, the notion that reasons for commandments are beyond human comprehension can also be found in the writing of thinkers who were not kabbalists, like Maharal.<sup>66</sup> The idea can even be found in the writings of those who opposed Kabbalah, like Ran and Mendelssohn. Second, it is possible that there were kabbalists, like the authors of the Zohar, Rabbi Isaac Luria (Ari) and his student Rabbi Ḥayyim Vital, who held that the lofty kabbalistic reasons are not beyond reach; at least not beyond the reach of kabbalists.

65 According to Ḥatam Sofer, for example, we take stock of reasons mentioned in the Torah for stringent rulings alone. See *Responsa Ḥatam Sofer*, vol. 7, no. 18.

66 Scholars are divided regarding Maharal's connection to Kabbalah. For an overview, see Benjamin Brown, "The Two Types of Unity': Maharal, Sfat Emet and the Dualistic Turn in Late Hasidic Thought," in *Maharal: Overtures – Biography, Doctrine, Influence*, ed. Elchanan Reiner (Jerusalem: Shazar, 2015), 411–58 (415 nn. 13–14) (Hebrew). Notwithstanding this open question, regarding reasons of commandments I have not found kabbalistic roots in Maharal's writing.

In the introduction to his work *Major Trends in Jewish Mysticism*, Gershom Scholem wrote: “[I]n their [the Kabbalists—YL] interpretation of the religious commandments these are not represented as allegories of more or less profound ideas, or as pedagogical measures, but rather as a performance of a secret rite (or *mystery* in the sense in which the term was used by the Ancients).”<sup>67</sup> In his essay “Kabbalah and Myth,” Scholem wrote: “In the Kabbalah, accompanied as it is by a consciousness of the absolute dignity and authority of the Law, the Torah is transformed into a Corpus mysticum.”<sup>68</sup> According to Scholem’s phenomenology, all kabbalists—certainly the most prominent ones—adopted a form of Halakhic Religiosity of Mystery and Transcendence. According to Scholem, the mysterious element of the commandments comes from their link to the Divine, which in essence is transcendent.<sup>69</sup> Scholem’s idea that kabbalists viewed commandments as a *corpus mysticum* is an element of his understanding of theosophic Kabbalah, in all its forms and versions. All trends of Kabbalah, Scholem argued, use symbolic language (as per Goethe), according to which “the mystical symbol is an expressible representation of something which lies beyond the sphere of expression and communication, something that comes from a sphere whose face is, as it were, turned inward and away from us.”<sup>70</sup> Regarding my claim that Rashba was the first to express the idea that reasons for commandments are transcendent, Scholem would probably respond that this student of Nahmanides was just illuminating what was implicit in his teacher and indeed by all kabbalists.<sup>71</sup>

Is Scholem’s phenomenology regarding all kabbalistic reasons for commandments convincing? Is it indeed adequate to assume that all kabbalists held that kabbalistic reasons for commandments are distant glints of the hidden, divine wisdom? Do kabbalists who suggest reasons in concrete,

67 Gershom G. Scholem, *Major Trends in Jewish Mysticism* (Jerusalem: Schocken Books, 1941), 29.

68 Scholem, *On the Kabbalah and Its Symbolism*, 95.

69 See also Scholem, *Major Trends*, 38; idem, *On the Kabbalah and Its Symbolism*, 121; Gershom Scholem, *Devarim be-Go* (Tel Aviv: Am Oved, 1975), 26–27. On Scholem’s approach to rabbinic halakhah as “hypertrophy of ritual,” see Moshe Idel, “Rabbinism versus Kabbalism: On G. Scholem’s Phenomenology of Judaism,” *Modern Judaism* 11 (1991): 281–96.

70 Scholem, *Major Trends*, 27; cf. Moshe Idel, *Kabbalah: New Perspectives* (New Haven: Yale University Press, 1988), 218.

71 Having said that, Scholem would not deny Rashba’s contribution to the popularization of the idea.

unreserved language hold that they are symbols that express that which cannot be expressed or attained? There are scholars who understand that certain kabbalists do not see Kabbalah as symbols for transcendent wisdom. According to these scholars, kabbalistic reasons for commandments are indeed known and transparent to kabbalists such as Rabbi Moses de León (in the Zohar and in his Hebrew writings), Rabbi Joseph of Shushan (in his treatise on the reasons for commandments), and to Rabbi Isaac Luria and his student Rabbi Ḥayyim Vital.<sup>72</sup>

While the principle of charitable interpretation (of Kabbalah) may lead one to accept Scholem's position, the textual evidence, i.e., the language of these kabbalistic texts, contradicts his assessment. Be that as it may, there is no need here to determine whether there is the element of mystery in the reasons of the commandments of all the kabbalists, including the Zohar and Lurianic Kabbalah. The sources cited above, and the bounty of sources that have not been discussed here, indicate that many kabbalists, in particular those who were also halakhists, understood that the kabbalistic reasons of commandments should not be understood literally. Rather, they are like "very hidden parables," meaning they are like blurred glimmers or flashes of divine wisdom that are beyond human comprehension, even beyond the reach of prominent kabbalists.

## 9. Kabbalah and Legal Formalism in Halakhah

As noted in the previous chapter, the rise of kabbalistic reasons for commandments resulted in an extreme legal formalism taking root in halakhah—both in Torah study and in decision-making—in an unprecedented manner. This impact of Kabbalah on halakhah was indirect though dramatic. To the best of my knowledge, it has yet to be recognized, hence it has not

72 Regarding R. Moses de León, see Elliot R. Wolfson, "Mystical Rationalization of the Commandments in 'Sefer ha-Rimmon'," *HUCA* 59 (1988): 217–51; Avishai Bar-Asher, "Kabbalah and Minhag: Geonic Responsa and the Kabbalist Polemic on Minhagim in the Zohar and Related Texts," *Tarbiz* 84 (2015–16): 195–263 (Hebrew). Regarding R. Joseph of Shushan, see Leore Sachs-Shmueli, "Rationale of the Negative Commandments by R. Joseph Hamadan: A Critical Edition and Study of Taboo in the Time of the Composition of the Zohar" (Ph.D. diss., Bar-Ilan University, 2018) (Hebrew). Regarding reasons for commandments in the writings of R. Ḥayyim Vital, see Assaf M. Tamari, "Body Discourses of Lurianic Kabbalah" (Ph.D. diss., Ben-Gurion University of the Negev, 2016) (Hebrew).

been discussed in both the scholarly literature on Kabbalah and on halakhah. To be sure, formalist elements were integrated into the halakhic discourse before the appearance of Kabbalah and its development into a complex theosophic thought structure in the thirteenth century. Certainly, formalism was present in halakhah before Kabbalah became the governing theosophy among Jews in general, and specifically among halakhists beginning in the sixteenth or seventeenth century. Yet the rise of Kabbalah, and with it the development and dissemination of the view that the “true” kabbalistic reasons of the commandments are pale reflections of transcendent divine wisdom that is beyond comprehension, resulted in the entrenchment of an extreme formalism-conceptualism in halakhic discourse.

The kabbalistic theosophy that emerged and developed from the end of the twelfth century and through the thirteenth century profoundly transformed the reasons of the commandments. At first, kabbalistic reasons were attributed in the Book of Bahir to a few commandments, then to some more, for example in a treatise on the commandments by R. Ezra of Girona, and with much more sophistication and depth by Naḥmanides in his Commentary to the Torah. In the next stage, all commandments were seen as having kabbalistic reasons.<sup>73</sup> Initially, kabbalistic reasons were added to the plain reasons for commandments. As the kabbalistic reasons evolved and became more central, they began to overshadow the simple reasons.

73 The enumeration of commandments of R. Ezra of Girona appears to be the first kabbalistic work on reasons for commandments. In this work, he wrote: “And following what we have outlined, we can explain that each and every commandment comes from a particular mystical attribute.” Yet the proof that all commandments are rooted in the secrets of Kabbalah can be found in the Zohar and kabbalistic works from the fourteenth century; see Scholem, *On the Kabbalah and Its Symbolism*, 134. Regarding reasons for commandments in early Kabbalah, see Jacob Katz, “Halakha and Kabbalah – First Contacts,” *Zion* 44 (1979): 148–72; reprinted in idem, *Halakhah and Kabbalah* (Jerusalem: Magnes Press, 1986), 9–33 (11–25) (Hebrew). For a scholarly overview (until the mid-1980s), see D. C. Matt, “The Mystic and the Mizvot,” in *Jewish Spirituality: From the Bible through the Middle Ages*, ed. A. Green (New York: Crossroads, 1987), 377–84. See also Idel, *Kabbalah*, xiii: “[T]he bulk of thirteenth-century Kabbalistic literature was dedicated to *ta’amey ha-mizvot*.” However, Scholem and other scholars who studied the various trends of kabbalistic theosophy, did not delve into the kabbalistic reasons for commandments, nor were they concerned with the relationship between Kabbalah and halakhah. The relationship between the two has been discussed primarily by scholars of halakhah who were not scholars of Kabbalah.

Those plain, mundane reasons were considered superficial, partial (tip of the iceberg), and even inaccurate, until they were almost totally abandoned.

The creative drive that created the kabbalistic theosophy—with reasons for the commandments as one of its pivotal axes—triggered a religious renewal, albeit among limited circles of enthusiasts. Within a short period of time, simple reasons were replaced by “upper” reasons [*te’amim ‘elyoniyim*] that linked each and every commandment—symbolically or theurgically—to the divine realm by symbolism or by theurgy. This was not just a spiritual drama but also a normative drama. The potential of the kabbalistic reasons to transform halakhah was enormous. If we recall the basic insight that was at the root of the words of writers I cited above—that reasons are the life-force of the commandments, or in the language of R. Elijah of Vilna, “Commandments without intent are like a body with no soul” (Source 9)—it is no exaggeration to say that kabbalistic reasons for the commandments had the power to overhaul halakhah. It is important to recall that all types of reasons—even kabbalistic reasons that seem to be “non-halakhic,” i.e., irrelevant to halakhic reasoning, or were suggested only to justify existing laws—have the propensity over time to refashion laws. To put it simply: Whenever the reason for a law changes, the law itself has the potential to change too.

Yet whoever expected that kabbalistic reasons would be integrated in the halakhic discourse and refashion laws in their image was to be disappointed. To a large extent, the halakhic discourse ignored Kabbalah. To be sure, Rabbi Joseph Karo declared that the Zohar had halakhic standing, yet it served as the basis for precious few rulings.<sup>74</sup> Moreover, and for our purposes more importantly, Karo and halakhists who followed him did not attribute legal weight to the kabbalistic theosophy in the Zohar. Rather, they integrated a few halakhic instructions they found in the book, such as the instruction not to lay *tefillin* on the intermediate days of festivals (*hol ha-mo‘ed*). Indeed, in general, the halakhic literature does not include halakhic rulings that are

74 See Moshe Hallamish, *Ha-Kabbalah be-Tefillah, be-Halakhah, u-ve-Minhag* (Ramat Gan: Bar-Ilan University Press, 2000); idem, *Kabbalistic Ritual: The Integration of Theory and Practice* (Tel Aviv: Idra, 2016), 13–21 (Hebrew); Hagai Pely, “Lurianic Kabbalah: Halakhic and Meta-Halakhic Aspects” (Ph.D. diss., Ben-Gurion University of the Negev, 2014), 2–8 (Hebrew).

explicitly based on Kabbalah, nor even on the reasons for commandments that are discussed in the Zohar.<sup>75</sup>

Kabbalah, in particular since sixteenth-century Safed Kabbalah, has been a source of a plethora of new customs that have been adopted across wide-ranging communities, further adding to the popularity of Kabbalah. Most of the customs have been appended to existing laws. While a few such customs have acquired for themselves a measure of halakhic status, the vast majority remain beyond the borders of halakhah. Notwithstanding, we should not underestimate the power of such customs: while from a normative perspective they are not obligatory, they still inject vitality into Jewish life and arouse religious renaissance. Indeed, the religious impact of a particular practice upon individuals or communities is not dependent on the halakhic status of the practice. It is entirely possible that a custom that has absolutely no halakhic standing or weight will be invested with deep, religious meaning. Those who adhere to the custom will perceive it as essential and inspirational, mystical and religious—more so than a commandment of the Torah (*de-'orayta*).<sup>76</sup>

Thus, for example, Shabbat—both as an idea and as a commandment that includes many halakhic strictures and rules<sup>77</sup>—was reinterpreted by many kabbalists as a sublime theosophy and as a practice that is based on mystical (symbolic and theurgic) reasons.<sup>78</sup> The kabbalistic theosophy of Shabbat served as a source of inspiration for an abundant number of kabbalistic customs.<sup>79</sup> For many, the kabbalistic poem *lekhah dodi* by Rabbi Shlomo Alkabetz, the centerpiece of the *Kabbalat Shabbat* [receiving Sabbath] ritual in almost all Jewish communities, colors the Shabbat in far brighter

75 Thus, for instance, the critique of halakhists against the socio-historic reason put forward by Maimonides for the prohibition against marring the corners of the head and the beard does not mention the lofty, theurgic reason found in the Zohar; see Lorberbaum, “On the Rejection of Reasons.”

76 See Katz, *Halakhah and Kabbalah*.

77 See *m. Hag.* 1:8.

78 See Elliot K. Ginsburg, *The Sabbath in the Classical Kabbalah* (Albany: State University Press of New York, 1989). Rashba demonstrates his claim regarding the transcendent nature of reasons, by referencing the Shabbat commandment: “Its reason is explained in the Torah ... notwithstanding, the substance of Shabbat has a great, lofty secret.”

79 For a detailed overview of the kabbalistic customs of Shabbat, see Moshe Hallamish, *Kabbalistic Customs of Shabbat* (Jerusalem: Orhot, 2006) (Hebrew).

tones than the Shabbat laws anchored in the Torah.<sup>80</sup> All this despite the fact that this suggestive hymn and the entire *Kabbalat Shabbat* ritual—both rooted in Kabbalah—have no halakhic standing. Indeed, some communities are careful to preserve a distinction between *Kabbalat Shabbat* and the halakhic evening prayer.<sup>81</sup> For kabbalists and for many communities, Kabbalah can invest customs or existing laws with deep, religious meaning and endow them with a mystical glow. This is also the power of kabbalistic approaches that consider reasons of the commandments as transcendent.

So far my arguments about the influence of Kabbalah on halakhah pertain to the halakhah and to the halakhic discourse. Considering the enormous potential of kabbalistic reasons to change halakhah, their impact has been minor, even negligible. Kabbalah has not served as a springboard for creating new branches of law, nor has it reframed existing *halakhot*. On the contrary, because of the tendency of kabbalists to elevate reasons to transcendence, the impact of Kabbalah on halakhah has been in the opposite direction. Let us return to the example of Shabbat: Though Kabbalah provided Shabbat with an original theosophy, suggested new reasons for its abundant rules, and advocated a plethora of new customs, nevertheless, with regard to Shabbat as a halakhic institution—the academic study of the laws of Shabbat (*limmud Torah*), and the rulings of decisors in “hard cases”—the impact of Kabbalah has been extremely minor.<sup>82</sup>

At the beginning of his essay, “Tradition and Creation in the Ritual of the Kabbalists,” Scholem wrote:

Mystical movements face a characteristic contradiction. On the one hand, the new view of God cloaks itself in the deliberately conservative attitude of men who are far from wishing to infringe on, let alone, overthrow tradition, but wish rather to strengthen it with the help of their new vision. Yet, on the other hand, despite this attitude of piety toward tradition, the

80 Regarding *lekha dodi* and its kabbalistic significance, see Reuven Kimelman, *Mystical Meaning of Lekha Dodi and Kabbalat Shabbat* (Jerusalem: Magnes Press, 2003) (Hebrew); Hallamish, *Kabbalistic Customs*, 224-36.

81 Such distinctions include: timing of the prayers, identity of the leader of the service, and where the leader stands.

82 It would appear that the plethora of kabbalistic customs on Shabbat that have no legal standing are a form of compensation for the inability of Kabbalah to influence halakhah itself.

element of novelty in the impulses that are here at work is often enough reflected in a bold, if not sacrilegious, transformation of the traditional religious contents.

“This general observation,” maintained Scholem,

Applies fully to the Kabbalistic movement in Judaism. ... [I]ts systems were all conceived as conservative ideologies within the frame of Rabbinical Judaism ... Yet, nearly all these systems are so revolutionary in implication that their conservative character was time and again called into question.<sup>83</sup>

Scholem identified the revolutionary potential of Kabbalah from its inception and through the generations, and at the same time he correctly identified its conservative character. Yet except for his illuminating discussions of Sabbatian antinomianism, Scholem did not explain how this energized innovation might have operated.<sup>84</sup> More importantly, Scholem did not explain how Kabbalah—despite its revolutionary potential—actually became a supremely conservative force.

Kabbalah’s latent power to cause far reaching normative changes in halakhah is rooted in the relationship between reasons and rules—for the present discussion, the power of the new kabbalistic reasons to reshape halakhah in light of those reasons. How did the transformative potential of Kabbalah become a conservative force? The paradox is rooted, *inter alia*, in the fact that Kabbalah constituted Halakhic Religiosity of Mystery and Transcendence. As kabbalistic theosophies took form at the end of thirteenth century, and with it the kabbalistic interpretation of the commandments, the so-called “venerable” reasons were described by key kabbalists as vague glimmers or flashes of divine wisdom that is beyond human grasp. The notion was first expressed by Rashba, the leading halakhist and kabbalist of his generation, then by his students, and later by other kabbalists. From the sixteenth century onwards, the idea became central. While the notion of transcendent reasons

83 Scholem, *On the Kabbalah and Its Symbolism*, 118–19.

84 At times, Scholem explained the tension between the innovation and the conservatism of Kabbalah as a tension between nomism that establishes halakhah and antinomianism that undermines it (as in Sabbateanism). Yet the revolutionary potential of Kabbalah lies in its predilection for suggesting new reasons, and thereby fashioning and even changing halakhah in new directions. Such a change is not antinomian, rather it is a change within (or a reform of) the legal system.



may not have been adopted by all, nonetheless it was accepted by many kabbalists through the generations; in particular, by kabbalists who were also halakhists and by halakhists who accepted Kabbalah as outsiders. There were thinkers and halakhists who adopted non-kabbalistic versions of the notion of transcendent reasons. The collection of sources presented above demonstrates how many of them even considered the idea to be a “principle of faith.” As a result, the kabbalistic reasons for the commandments were sidelined from the halakhic discussion. Even kabbalists who thought that they had completely uncovered the kabbalistic reasons, and claimed to know exactly how each commandment operated in the supernal worlds still did not dare to attribute halakhic valence and even claim halakhic standing for those reasons. Legal traditions, in particular the Jewish halakhic tradition, define what are acceptable legal arguments, and what types of arguments, though they may be convincing, are not considered part of the legal discourse. Given that the majority of halakhists hold that reasons are beyond human understanding, any claim or argument that is based on reasons will not be considered a valid legal argument. Thus, even halakhists who claim to know the reasons for a commandment or a halakhic rule, understand that they cannot introduce them into the halakhic discourse.

Kabbalah never realized its revolutionary potential; instead, an opposite “reaction” occurred: Kabbalah’s deepest level, the reasons for commandments, were seen as beyond human grasp. The revolutionary energy contained in the kabbalistic reasons was now loaded onto the belief that “reasons for commandments to their fullest extent have not yet been revealed to any person in the world” (Source 12). From here on, reasons would no longer have a place in halakhic discourse—not the kabbalistic reasons, and certainly not the simple, mundane, reasons. The kabbalistic reasons have not been fully revealed, while the revealed reasons are nothing more than a drop of the ocean, hence cannot be considered a purpose. The rise of Halakhic Religiosity of Mystery and Transcendence—born from the womb of Kabbalah and nourished by it—explains not only why Kabbalah had such a minor influence on the halakhic discourse but also how Kabbalah triggered halakhic stagnation.

