

The Interconnectedness of Halakha, Philosophy, and Education: Maharal's View of 'Codification Abridgment Literature'*

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The philosophical teachings of Maharal (Rabbi Judah Loew, Posna, 1520?–Prague, 1609) have been subject to extensive research; much attention has also been devoted to his educational insights, and some scholars have focused on his exegetical methodology. In contrast, his halakhic legacy has received almost no attention. This is not surprising: while the scope of Maharal's philosophical writings is immense, his legal works – at least, those still extant – are very limited. With only small, scattered samples, the material at hand is insufficient to facilitate serious research. At the same time, the absence of such scholarship presents a serious problem, for two reasons:

- Firstly, to properly understand Maharal, we must understand his halakhic worldview, which represents a significant aspect of his personality. Let us not forget that he was among the greatest halakhic authorities of his generation – a generation of great scholars and major rabbinical figures whose works retain their central place in halakhic literature to this day. It was amongst this company of intellectual giants that Maharal was recognized as a leading figure.
- Secondly, the various works and different areas of scholarship of a single author are assumed to be interrelated. There are ties between Maimonides's philosophical works and his halakhic teachings;¹ likewise, we find that there

are links connecting the philosophical and halakhic aspects of Rabbi Kook's teachings,² and so on.³ The same, of course, applies in the case of Maharal.

If these assumptions are sound, then it is clear that the lack of attention to and research of Maharal's halakhic teachings ultimately means that our grasp of his philosophical, educational and exegetical teachings is less than optimal. This article will therefore seek to illuminate one of the fundamental principles which Maharal views as essential to his halakhic approach, with an attempt to examine its connection with his philosophical and educational teachings.

Maharal as religious leader and halakhic authority

At the outset, it is important to situate Maharal in the pantheon of great rabbinical figures and halakhic authorities of his era. Maharal served as the head of the Rabbinical Court in Nikolsburg and was the Chief Rabbi of Moravia for some twenty years, the rabbi of Posnań for about four years, Chief Rabbi of Poland for about five years, and – of course – Rabbi of Prague.⁴ As spiritual leader and halakhic authority he was held in great esteem, as evidenced by the fact that Rabbi Avraham Braude (1650–1717), head of the Rabbinical Court of Prague and eventually of Frankfurt, refers to him as ‘the greatest of the Rishonim’ (*Hanokh Beit Yehuda* Responsa, #130); Rabbi Avraham Tzvi Hirsch Eisenstadt (1813–1868), in his work *Pit'hei Teshuva* (on the Shulhan Arukh Even ha-Ezer, #17:98) calls him ‘the greatest of the Aharonim’; Rabbi Yom-Tov Lipman Heller Wallerstein (1579–1654), author of the *Tosfot Yom Tov* commentary on the Mishna, calls him (in his *Geonei Batrai* Responsa) ‘a steel

pillar upon which the entire House of Israel may rest.’ Maharal's grandson, Rabbi Naftali Katz (1660–1719), head of the Rabbinical Court of Frankfurt, writes that Maharal ‘operated with Divine inspiration, as is well known’ (*Hakham Tzvi* Responsa #76); Maharam Lublin (1558–1616) addresses him with deference (*Maharam Lublin* Responsa #51), and so on,⁵ the same reverence continuing to this day.

As for Maharal's halakhic works, while we possess no more than the tip of the iceberg, there is evidence testifying to additional works lost in the passage of time. In any event, even the tip of the iceberg is a significant corpus, including the following works: *Hiddushei Maharal mi-Prague al Tur Yoreh De'ah* (published in Sulzbach and Amsterdam 5535 [1775]);⁶ a gloss on *Sefer ha-Mordekhai*, printed in *Sefer Gedulat Mordekhai* by Rabbi Barukh son of David of Genizin (published in Hanva, 5375 [1615]; noted, for instance, in *Shakh Yoreh De'ah* #41:13); *Hiddushei Gur Aryeh* on Tractates Shabbat, Eruvin and Pesahim (Lvov, 5623 [1863]); *Hiddushei Maharal* on Tractate Bava Metzi'a, Jerusalem 5766 [2006]; the Commentaries of Maharal – and his son, Rabbi Betzalel – on Tractate Berakhot, *Yeshurun* 2 (5757 [1997]), pp. 59–88; Commentaries of Maharal – and his son, Rabbi Betzalel – on Tractates Rosh ha-Shana, Yoma, and Ta'anit, *Yeshurun* 9 (5761 [2001]), pp. 55–61; Commentaries of Maharal – and his son, Rabbi Betzalel – on the chapter ‘Arvei Pesahim,’ *Yeshurun* 10 (5762 [2002]), pp. 91–6; and a ruling by Maharal on the matter of a ‘chained woman’ (a woman unable to obtain a divorce from her husband) in *Geonei Batrai* Responsa (Prague 5354 [1594]): ‘Ruling Concerning a Chained Woman.’⁷ Other halakhic rulings by Maharal are scattered in various books of responsa: (Old) Responsa of the Bakh #36 and #117; *Eitan ha-Ezrahi* Responsa #37; *Hanokh Beit Yehuda* Responsa

#75;⁸ ‘Some Laws ... of Grace After Meals,’ *Yeshurun* 2 (ibid.), pp. 108–9, and others.⁹

Halakhic discussions and rulings are also to be found among Maharal's philosophical works: his *Ner Mitzvah* contains a halakhic ruling that Sabbath and Hannukah lights should be kindled specifically with olive oil; it also instructs that they should be lit while people are still going about their business (before ‘everyone has left the marketplace’); and there is a halakhic discussion pertaining to the recitation of Havdala at the end of the Sabbath before the Hannukah lights for that night are lit. (Maharal's opinion in this regard is cited by other authorities: Shulhan Arukh Orah Hayim 673 and 681). Similarly, laws of Pesach and laws pertaining to wine are discussed in his book *Gevurot Hashem*. In his *Netivot Olam*, in the section on language, Maharal also includes a number of halakhic responsa.

More recently, Rabbi Yitzhak Yudlov¹⁰ gathered seven halakhic rulings by Maharal, mostly from manuscripts, which until now had remained entirely unknown. These responsa address such matters as witnesses in matters of levirate marriage; emissaries for the purpose of divorce in the case of an aspostate; a matchmaker who demands a higher wage than the regular rate; an old Torah scroll in the ownership of a gentile; laws of heating and insulating heat for food on Shabbat, and others.¹¹

We also know of other works which, for various reasons, are no longer extant. The inscription on Maharal's grave informs us¹² that he composed original insights on the entire Talmud; compiled a sort of reconstruction of the Talmud on Seder Zera'im and

on Seder Taharot, gathered from the four existing Sedarim, with a 'simple commentary' (*perush pashut*) like that of Rashi and a 'more penetrating commentary' (*perush harif*) like that of the Tosfot – known as *Seder Talmud*; as well as several responsa. All of this was lost in a great fire which broke out in Prague in 1689.¹³ We also know that Maharal authored original insights on the Rif (*Sefer ha-Halakhot* by Rabbi Yitzhak Alfasi) and on the Mordekhai – Tractates Berakhot, Pesahim, and Yevamot; original teachings on the laws of the priestly garments, the ingredients of the incense, the Temple vessels, the laws of mezuzah, and more.¹⁴

We also know of Maharal's extensive library, thanks to a description by one of his disciples, Rabbi Shmuel bar Elazar of Apta, author of *Hiddushei Gemara* – a collection of original teachings on Tractates Ketubot and Kiddushin. These teachings are gathered from a broad diversity of responsa literature. In his introduction, Rabbi Shmuel explains how he came to compose this work:

I was aided in having come under the patronage of our rabbi and teacher, the celestial lion, the distinguished master of Torah, renowned for his piety, our rabbi and teacher, Rabbi Yehuda Loew, head of the Rabbinical Court and Rabbi of the community of Nikolsburg, and I 'drew water with joy from the spring of salvation', from the illuminating glow of the glory of his Torah, and I found that his home was full of books ... I bravely girded my loins ... to study and to understand these books and innumerable responsa.

The existence of such a rich and extensive personal library sits well with Maharal's special halakhic rank and expertise, as well as with his apparent guidance of his disciple to this area of study.

Maharal's own ideological attitude towards halakha must also be emphasized. While the vast majority of his extant writings concern matters of aggada (non-legal, homiletic material) and faith, Maharal himself emphasizes the lofty status reserved for halakha. According to Maharal, the realm of halakha represents the foundation and core of Judaism.¹⁵ Maharal expresses this message more than once, but not at great length, apparently regarding it as obvious.¹⁶

Thus, over the course of his sharp polemic with the author of *Imrei Bina*,¹⁷ Rabbi Azariya Dei Rossi,¹⁸ Maharal discusses the homiletic stories of the Sages (aggada), *inter alia* drawing a distinction between these and their halakhic teachings:

... For aggada is [merely] one more source of wisdom, while halakha is [specific] practical guidance. Something which is practical guidance does not stray from absolute truth, whereas something which is not practical guidance – such as matters of aggada – may address its subject only from a certain point of view, as the Torah nevertheless has facets. In any event, something which is practical guidance has only one facet.¹⁹

Thus Maharal explains (*ibid.*) why concerning aggada – in contrast to halakha – there is a principle that ‘one does not challenge or question matters of aggada, we do not learn halakha from aggada’ – since, in matters which lie outside of halakha, there are different aspects or ways of looking at things, none of them considered decisive or absolute. However, lest this statement be construed as irreverence towards aggada, Maharal immediately goes on to warn against any suggestion that aggadic narratives

are not ‘words of Torah’ like the rest of the Torah given at Sinai: ‘Anyone who says this has no portion in the World to Come.’ The severity of this punishment, according to Maharal, may be explained by the fact that it is specifically the aggada narratives which anchor and reinforce religious faith.

Maharal expresses the same sort of complex approach in his discussion (ibid.) of the rabbinical dictum (Haggiga 14a), ‘Why are you appealing to aggada?’ – a dictum which might be misinterpreted as disdain for aggada and scorn for its status. Maharal explains the deeper meaning as follows: on the one hand, it is clear that ‘halakha is always above everything, because halakha is the perfection of action ... but this is not so concerning aggada, which does not lead to practical action,’ and ‘the purpose of the Torah is action.’ Nevertheless, we have to know that ‘all the aggada narratives are Torah wisdom; concerning these we are told (Sifri, Ekev), “If you wish to know the Creator of everything, occupy yourself with aggada” – for these narratives certainly open the gates of heaven; they open every closed and concealed treasure’ for a person who has acquired the appropriate ‘keys.’ Hence we must conclude that in ideological terms, too, halakha occupies a decisive, binding status in the eyes of Maharal.

All of the above points to the great discrepancy between the greatly esteemed and admired halakhic personality of Maharal, and the paucity of his extant halakhic works. Nevertheless, the little that we have may offer insights into Maharal's halakhic approach, although the limited sampling requires that we exercise some caution. We shall therefore attempt to examine the connection between halakha, philosophy and education in his overall approach, as expressed in his discussion of an important question of principle.

Deciding halakha on the basis of Talmudic study: pro and contra

Much has been written²⁰ on the status of ‘codification abridgment literature.’ This genre includes a great many books written over many centuries. For the benefit of the general Jewish population, which – owing to time constraints or to lack of study skills and ability – are unable or unequipped to grapple thoroughly and comprehensively with the scholarly arguments, refutations and clarifications that ultimately lead to the consolidation of halakha, the sages and scholars compiled straightforward books of instruction and guidance, presenting the halakhic ‘bottom line’ clearly and simply. The Mishna, compiled by Rabbi Yehuda ha-Nasi, represents one such endeavor; later codifications of halakha include Maimonides' *Yad ha-Hazaka*, the *Shulhan Arukh* by Rabbi Yosef Karo, the *Kitzur* ['Abridged'] *Shulhan Arukh* by Rabbi Shlomo Ganzfried, and the contemporary *Shemirat Shabbat ke-Hilkhata*, along with many other such works. At various stages in Jewish history these works became the focus of fierce controversy. Their supporters argued that they offered significant and essential support for religious observance, while their detractors warned of the dangers of shallowness and even mistaken practices.

The most noteworthy source representing the ‘pro-abridgment’ camp would seem to be Rabbi Yosef Ibn Megas (R"Y Megas) (1077–1141),²¹ in his response to the following question addressed to him:

What says our master concerning a person who has never studied halakha with a teacher, and is not familiar with the halakhic thought-process, nor with its interpretation, nor with its literature, but has seen many of the responsa of the Geonim, and books of laws. Our master is aware that the responsa are not all equally reliable, especially the older ones among them, which have been diminished by scribal errors. In addition, some of their responsa have been wrongly attributed, and furthermore, many of the Geonim gave instruction, in their responsa, concerning a particular question, but afterwards retracted that instruction, or others disagreed with it later on. If someone's knowledge is mainly in the realm of these responsa, and he cannot tell those that are right from those that are not, can he instruct on some subject, or in some matter, and issue a ruling in that regard? For it may be that the authority who issued the ruling upon which he bases his instruction has since retracted it. Thus, if someone does not understand the essence of the law, nor where its source is in the Talmud – is he permitted to instruct, and can his rulings be relied upon in any matter? Especially if he is not God-fearing and has been accused of many transgressions; it is also said of him that he answers one question in a certain area in one manner, based on a certain sage, and then later answers a different question, in a similar area, in a different manner, based on a different sage. Let our master clarify the law thoroughly in this regard.

Close attention should be paid to who and what is involved here: the person about whom the question is posed – i.e., whether his halakhic rulings may be relied upon – is someone who has never undertaken proper, thorough study; the sources upon which

he bases his decisions are not always the final ‘bottom line’ of halakha; he chooses one sort of ruling in one instance and a different sort on another occasion; and – worst of all – he is ‘not God-fearing,’ and there are even testimonies accusing him of ‘many transgressions.’ It is concerning such a person that Ibn Megas is asked whether his rulings should be followed.

Surprisingly enough, not only does Ibn Megas answer in the affirmative, but he goes on to assert that this person is a preferable as an authority to a scholarly sage who rules on the basis of his own in-depth study of Talmudic literature – as long as the person is, at the very least, God fearing:

Responsum: ‘This man is more worthy of being permitted to instruct [halakha] than are many people who have established themselves as authorities in our times; most of them do not possess even one of two [essential] qualities – an understanding of [the normative] halakha, and a grasp of the rulings of the Geonim. Those who pretend to instruct from fundamental halakhic sources and based on their study of Talmud are the ones who should be prevented [from issuing halakhic rulings], since in our times there is no-one capable of this, nor anyone who has attained the wisdom of the Talmud, to the level of being able to rule on the basis of his own scholarship, without taking note of the rulings of the Geonim. On the other hand, a person who rules on the basis of responsa of the Geonim, and relies upon them, even though he has no understanding of the Talmud, is better suited and more praiseworthy than one who thinks that he knows the Talmud, and relies upon himself. For the former, although he instructs on the basis of incorrect logic from teachings of the

Geonim, he does no wrong, since what he does is based on a sound source.

But one who instructs on the basis of his own study of halakha may think that some law requires a certain ruling – but it does not in fact entail it, and his study misleads him, or he is mistaken in his interpretation. In our times there is no-one who attains, in Talmud (study), a level at which he can reliably instruct on that basis. I have seen responsa by some people, in matters where they issued instruction, believing that they were giving proper instruction and that [the matter] was as clear as daylight, but they were mistaken in their instruction, having referenced the matter wrongly, or deducing the law from a place where it cannot be deduced. There are instances where a very slight distinction separates the matter at hand from the law upon which they based their rulings, and they did not discern this, and they took the general law at face value, and equated it with the matter facing them, not sensing the slight distinction involved. Hence I say that a person who does not rely upon himself – if he bases himself upon the responsa of the Geonim and their instruction, which are brief, clearly organized rulings and deductions – is more praiseworthy than those who pretend to instruct based on their own Talmudic scholarship. However, concerning your mention that he is not God-fearing: if he is a regular adjudicator then the matter should be investigated, for it is not proper to appoint an adjudicator who is not upright; that is like planting a tree of idolatry amongst Israel. However, if he is not a permanent adjudicator, but rather deals only with cases where he has been selected [by the party involved], then he should not be prevented.

In these unequivocal words Ibn Megas expresses his identification with the school which embraces and encourages codification literature for its important and significant benefits.

If Ibn Megas represents one pole in this debate, Maharal is the other.²² Maharal addresses the subject on more than one occasion, and at length – apparently because he views it as being of great importance.²³ Moreover, Maharal voices a statement in this regard which is educational, halakhic and also philosophical – as we shall see below.

In his exegetical work *Derekh Hayim*, on the Ethics of the Fathers (chapter 6, Mishna 6), Maharal deals with a clarification of the 48 ways through which Torah is acquired. After he finishes this discussion, he sees fit to add an emphatic comment on the sorry state of Torah scholarship in his time. Maharal enumerates several problems and indicates ways of correcting them. *Inter alia* he addresses himself to our subject, the issue of abridged codifications of halakha, which he views as one of the major ills of his generation:

So says Yehuda son of Betzalel: Now that all the 48 ways in which Torah is acquired have been explained, it is necessary to look into the matter of study in our generation – which of these 48 ways by means of which Torah is acquired, are necessary for the Torah of this generation? ...

Another short-cut was been introduced, and a 'set table' (*shulhan arukh*) now awaits a person, and great and small alike are invited to this table; the wealthy

[in knowledge] enjoy no preference over the poor, and everyone may partake of the fine fare. Even those who know nothing of reasoning and theory rule on halakhic matters based on their teaching of the [literal text of the] Mishna.²⁴ The early commentators, the sages of the Mishna and the Talmud, the Geonim, and all of the later authorities proceeded in an orderly fashion, studying first the Bible and then Mishna and later Talmud. In our generation they start with Talmud - teaching a child of six or seven Talmud! – only afterwards arriving at Mishna, and [even then] not truly studying, but only looking through extant rulings, as we have discussed ... Now we are left with no Talmud, nor any law and no practical instruction, except what can be found by searching [among existing specific rulings]... .

Maharal does not mince his words: his disapproval is directed quite explicitly towards the Shulhan Arukh by Rabbi Yosef Karo. Obviously, his criticism applies also to other codifications and abridgments, but it is nevertheless noteworthy that he speaks out even against the widely acclaimed Shulhan Arukh.

In this biting criticism Maharal focuses mainly on the misguided process. He offers scant explanation of the problem, and it would seem that he refers essentially to the faulty results – i.e., halakhic errors which arise from this model of decision-making which is based on abridgment literature.

As noted, Maharal addresses this subject elsewhere in his works. In *Netivot Olam* (the Path of Torah, chapter 15), he expands on this subject and adds a philosophical, ideological and substantive argument to support his opposition:

We find, in the 'Chapter on [those who do not have] a share [in the World to Come]' (Sanhedrin 99b): 'Rabbi Elazar said, "Man is created to labor"... We cannot know from this whether the reference is to the labor of Torah or labor of speech ... But since [the verse teaches,] "Let this book of Torah not depart from your mouth," we may conclude that [man is created] to labor in Torah study.' For it is impossible for 'man' to exist without this labor ...

One who studied Mishna but did not apprentice himself to a sage in order to clarify [for himself] the reasoning of the Mishna – for it is clarified intellect when one understands the reasoning of the Mishna – [this person] is called an ignoramus, for he has not acquired intellect ... [Similarly,] one who studied Mishna but did not apprentice himself to a sage in order to clarify it for himself, has not fully actualized his potential to become a sage himself ... One who studied Mishna without clarifying the Mishna is deficient in his Torah study ... for the intellectual grasp of the Torah is most appropriate to [Israel] ... For the Jewish People is uniquely suited to apprehending the Divine intellect ... Hence one who has only studied the Mishna [text] is considered a Cuthean, for he has not acquired Torah wisdom; he merely practices [the rituals], while proper observance of the commandments can only be achieved through application of the intellect ... And one who studied the Mishna without understanding the reasoning of the Torah causes the Torah to be

viewed, as it were, as something inferior and lowly, with no intellectual dimension, thereby relegating it to [the level of] something foreign and unseemly, since the commandments of the Torah are worthy, in their own right, of being performed based on intellect. Hence, learning nothing but the Mishna [text itself], which does not include a clarification of its intellectual process, is itself foreign and unseemly ... In other words, those who rule [on halakhic matters] even though they do not know the most basic reasoning of the Mishna, bring destruction upon the world, for the world rests upon Torah. It is not considered Torah when one has not clarified the reasoning of the Mishna, since the essence of Torah is practical guidance; it is upon this that the world rests. Therefore, those who rule on halakhic issues based on [what is written in] the Mishna, rather than on [the] clear reasoning [behind the Mishna], bring destruction upon the world, which rests upon Torah ...

However, in this generation, if halakha were to be ruled based upon the Mishna, that could still suffice, for the Mishna is the introduction to and beginning of the Talmud. However, halakhic rulings are issued [nowadays] not from within the Mishna, which leads to the Talmud – itself a commentary on the Mishna, but rather are drawn from [previous] rulings which were written as practical guidance: they were not meant to be studied from, but rather only as [specific] rulings, and this [practice] is far removed from wisdom. The early commentators, such as Rambam and the Tur, admittedly wrote [books of] rulings without clarifications, but their intention was merely to instruct as to the bottom line of halakha and how it arises from the Talmud.

But they would never have dreamed of anyone ruling on the basis of their works without knowing the origin of the law, simply taking the halakha without any of the process ... And had these authors known that these works would cause people to abandon the Talmud altogether, and to rule on halakhic matters on the basis of their works, they would never have written them. For it is better to rule on the basis of the Talmud, and even if there is reason to suspect that one may not follow the true path and may rule inaccurately, such that the ruling will not be accurate, nevertheless 'A judge has nothing but what his eyes can see', and this [situation] is better than where a person rules based on a single book, and knows nothing of the reasoning behind the matter; he walks like a blind man upon the path.

One might perhaps then say, how is halakha to be decided in this generation, which is not expert in Talmud and does not know it? It is certainly lamentable that Torah has been forgotten to the extent that we are not worthy of ruling on halakhic matters [from it]. This is a result of no-one reviewing his Talmudic study in order to become proficient and expert in it. We have discussed above the greatness of our deficiency in Torah; may our righteous teacher arrive and remove the dullness of our hearts and show us the wonders of the Torah; Amen, may it be His will speedily in our days, Amen.

There are two clear emphases in the negation of this model: there is the labor of Torah, and there is the intellect, or logic, of Torah. Maharal emphasizes that the commitment to toiling in Torah is not a technical, external matter, merely a means to

acquire knowledge. Rather, this labor is integral to the study of Torah; Torah study which is not accompanied by toil is like the study of a Cuthean or a sorcerer – i.e., it is not considered Torah study at all. Intellectual clarification is an inseparable part of Torah study, and if one's study involves no 'intellect' but rather only recitation and repetition, then it is not proper study. These arguments, based on Talmudic sources, are of a philosophical nature, and they reinforce the problematic ramifications of relying on codification abridgment literature.

Maharal startles with his revolutionary assertion that a person who has toiled and labored and attempted to achieve clarity in his study – even if he is mistaken in his conclusion – is preferable to someone who simply consults the 'bottom line' of the abridgments. In other words, Maharal's view in this regard is the exact opposite of that of Ibn Megas, which we examined above. While Ibn Megas would unquestionably hold in higher regard the person who cites the abridged 'bottom line' of the rulings of the Geonim, even if he is entirely unfamiliar with the halakhic discussions and debates that gave rise to them, for Maharal it is 'better that he should rule from within the Talmud, and even if there is reason for concern lest he not follow the path of truth and not rule on the matter as it should be such that the instruction is true, nevertheless the scholar has only what his intellect permits and understands from within the Talmud,²⁵ and even if his insight and wisdom mislead him, he is nevertheless beloved by God when he instructs in accordance with the dictates of his reason. "A judge has nothing but what his eyes can see,"²⁶ and this [situation] is better than where a person rules based on a single book, and knows nothing of the reasoning behind the matter; he walks like a blind man upon the path.' This, of course, is a very

far-reaching assertion, since it is clear that the result may be quite problematic: a mistaken ruling!

What of the fact that scholars of the stature of Maimonides and the Ba'al ha-Turim also compiled such codifications? Maharal insists that these giants would agree with his view, in principle, and if they had known to what use their books were to be put, they would never have dreamed of writing them. It is noteworthy that what these scholars actually thought was quite the opposite: Maimonides, for instance, wrote²⁷ quite explicitly and unequivocally that his purpose in compiling the *Mishneh Torah* was for its readers to find all the laws of the Torah in it, in concise, organized and directive form: 'In summary – in order that a person will need no other work at all on any matter of Jewish law; rather, this work will be a collection of the entire Oral Law ... Therefore I have called this work "Mishneh Torah," for a person first studies the Written Law and thereafter studies this, and from it he will know the entire Oral Law, and need read no other book other than them.'²⁸ Whether Maharal was aware of this statement and chose either to ignore it or to adopt a different interpretation of it,²⁹ or whether he was unaware of it, he clearly felt a need to address the fact that such literature – by such illustrious scholars – did exist. His own opinion, in any event, is clearly a sweeping rejection of codification and abridgment literature, including even the Shulhan Arukh.

The additional dimension that opens up here, along with the halakhic and the philosophical, is of course the educational dimension – which, to some extent, even precedes the other two aspects. The broad context of the chapter in question, in the

Ethics of the Fathers, is educational; this is its focus and its emphasis. As part of his educational guidance Maharal addresses this subject and defines the proper process of study: in-depth study of the Talmudic discussions, on one hand, while ruling out consultation of the codifications and abridgments, on the other.

Hence, even if Maharal's extant halakhic writings are unfortunately sparse, the example we have examined here may be regarded as a significant indicator.³⁰ It is not a single, arbitrary excerpt, but rather testifies to an outlook that perceives a harmonious association among a range of spheres: halakha, philosophy, and education. These spheres, and this approach, are a mirror-image of the personality of Maharal himself, who was a foremost halakhic authority, a philosopher of giant stature, and a masterful educator. At the very least, it is clear that in his attitude towards codification abridgment literature Maharal interwove three spheres into a single fabric: halakha speaks to philosophy, and both spheres together appeal to education, and this 'cord of three stands is not easily broken' (Ecclesiastes 4:12).

Notes

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- ¹ See D. Hartman, *Maimonides: Torah and Philosophic Quest*, Jewish Publication Society, 1977; I. Twersky, *Introduction to the Code of Maimonides (Mishneh Torah)*, New Haven, CT: Yale University Press, 1982; I. Twersky, *A Maimonides Reader*, Springfield, NJ: Behrman House, 1972; Y. Levinger, *Ha-Rambam ke-Filosof u-ke-Posek*, Jerusalem: Mosad Bialick, 1989
- ² See N. Gutel, *Innovation in Tradition: The Halakhic-Philosophical Teachings of Rabbi Kook*, Jerusalem: Magnes Publishing, 1995 [Hebrew].
- ³ Concerning the interrelatedness of the combined teachings of a philosopher and commentator and its inherent significance, see Rabbi Abraham Isaac ha-Kohen Kook, *Haskamot ha-RAY'H*, Y.M. Yismah and B.Z. Kahana (eds.), Jerusalem 5748; Approbation #25 [to the book *Hakhmei ha-Talmud*], p. 30: “[The author] has done well by collating all the dicta of the Sages of the Talmud ... each of them treated individually, with his dispersed dicta grouped together into a single integrated unit, illuminated so as to permit an understanding of the general spirit animating the overall approach of each individual Sage among the major Sages of the Torah and of our tradition, and an accurate penetration of the innermost great soul of each of our early Rabbis, adding potency and strength to the splendor and majesty of Torah. Concerning this it is written in the Jerusalem Talmud (Shabbat chapter 1, law 2), “When citing a teaching in the name of its author, one should visualize the author of that teaching as though he were standing before him...” and in the Babylonian Talmud (Shabbat 10b) ... and in Midrash Shir ha-Shirim (parsha 1:18) ... The internal relationship and bond that pervades the general spirit of all the teachings [of the same Sage] which are scattered in different places, is revealed and presents itself

to us through the collected presentation of all of those teachings, organized in orderly, concentrated and unified form... .' See also Rabbi Avraham Yitzhak ha-Kohen Kook, *Ein AY'H* – Shabbat 1, Jerusalem 5754, 10b #19, p. 14: 'Rabbi Hisda maintained that there are two advantages in collating the knowledge contained in the teachings of a great man, so that his generation, and the generations to come, may walk in his light. The first is the actual wisdom contained in each separate teaching; the second is the overall view of the worth of this elevated man and his great inner quality which is worthy of emulation ... For it is only through all the sparks of light that are dispersed in each and every teaching, which gathered together, produce the splendid spiritual portrait of a great man whose footsteps we may then follow ...;' see also Rabbi Avraham Yitzhak ha-Kohen Kook, 'Le-Ahduto Shel ha-Rambam', *Maamarei ha-Ray'h* 1, Jerusalem: Golda Katz Foundation, 1980, pp. 105–12.

⁴ For a biography of Maharal see Avraham (Ovadia) Gottesdiener, *Ha-Ari she-be-Hakhmei Prague*, Jerusalem: Mosad HaRav Kook, 2001, pp. 30–6; see also Rabbi Yitzhak Yudlov, *Teshuvot Maharal mi-Prague – Rabbi Y.B. Zolty Commemorative Volume*, Rabbi Y. Boksbaum (ed.), Jerusalem: Moria, 1987, pp. 264–6.

⁵ Also R. Shimon Yair Hayim Bachrach (1638–1701), *Hut ha-Shani* Responsa, #49.

⁶ The year 5715 (1955) saw the publication of *Hiddushei Maharal mi-Prague al Tur Even ha-Ezer*, within the framework of the *El ha-Mekorot* edition of the volumes of the Tur, by Rabbi S.B. Werner. Gad Gizbar, in his comprehensive doctoral dissertation *Le-Darko ha-Hilkhatit u-Farshanuto ha-Talmudit shel Maharal mi-*

Prague, Ramat Gan: Bar-Ilan, 5768 (2008), pp. 65–72, questions the attribution of this work to Maharal.

⁷ See *Beit Shemuel*, Even ha-Ezer #17:69, discussing this ruling.

⁸ The author even records there, in #132, concerning Maharal: ‘And I am fortunate enough to have collections of [his] Responsa!’

⁹ For instance, *Bi'urei ha-Rif mi-Massekhet Berakhot- Dehainu Peshatim me-ha-Maharil*, by a disciple of Maharal, *Yeshurun*, 2, 1997, pp. 89–108.

¹⁰ Rabi Y. Yudlov, op. cit., pp. 264–96. It is pertinent to note Yudlov's comment that the absence of any compilation of Maharal's halakhic rulings resulted in them remaining unknown, such that they were not always followed even by his own descendants.

¹¹ See also Rabbi O. Yosef, *Yabi'a Omer* Responsa, part VII, Yoreh De'ah 25: ‘I saw, in the work *Bnei Yonah*, whose author questions at length the words of the *Torat Hayim* However, I saw that he writes there that the genius of Israel, Maharal of Prague, likewise instructed in accordance with the *Torat Hayim*. . . .’

¹² All the same, this evidence carries limited weight since the gravestone has been restored several times, not necessarily as an exact replica of the original, such that the inscription may reflect a later historical consciousness.

¹³ Concerning the fire, see G. Gizbar, op. cit., p. 4 and n. 13.

¹⁴ See B. Sherwin, *Mystical Theology and Social Dissent: The Life and Works of Judah Loew of Prague*, Madison, NJ: Fairleigh Dickinson University Press, 1982. In the fourth chapter (pp. 38–50) he reviews the religious writings of Maharal and states (p. 41) that ‘From what must have been extensive writings on Jewish religious

law only scanty documents have survived. From what must have been many responsa only one has been preserved and published during Loew's lifetime ... Though extensive, the above-named works probably do not represent the entire scope of Rabbi Loew's literary productivity. There are indications that he authored other works that are either lost or simply remain obscure and unpublished.' Sherwin sums up (p. 44): 'If Bachrach's report is accurate, the quantity of Loew's unknown and unpublished work must be considerable.'

In this context mention should be made of the doctoral dissertation by G. Gizbar, *Le-Darko ha-Hilkhatit u-Farshanuto ha-Talmudit shel ha-Maharal mi-Prague* (see above, note 6), the first part of which is devoted to an exhaustive review of Maharal's writings in the realm of halakha, including both commentary and practical rulings. Dr. Gizbar sets forth in detail what we know of Maharal's halakhic works – those which are still extant, those which were written and lost, and those which are attributed to him but in fact, it seems, are not his. See pp. 3–4, criticizing the argument of André Neher who, in his book *Mishnato Shel ha-Maharal mi-Prague*, Jerusalem: Reuven Mass, 2003, pp. 1–35, diminishes considerably Maharal's stature as a halakhic authority and the value of his halakhic writings: 'It would seem that the writer has not taken note of the corpus which is suggested by Maharal's biography, nor has he seen a considerable portion of [Maharal's] halakhic writings.' See T. Granot, Meta-Halakha, 'Rulings and Educational Methods in the Teachings of Maharal of Prague', *Al-Derekh ha-Avot*, Alon Shvut 2001, 475–97 [Hebrew].

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- ¹⁵ Maharal, *Be'er ha-Gulah* – Be'er ha-Rishon, London: H.I. Henig & So. , 1964, p. 20: ‘... Since halakha is simple intellect ... Halakha is the straight path which does not deviate from uprightness, and it proceeds straight to God, and therefore it is called “halakha” [literally, “walking” or “path”]... .’
- ¹⁶ This may be the reason why scholars of Maharal have not addressed the matter of halakha and aggada, and the relationship between them, in his teachings at any length: Maharal's teachings in this regard are neither innovative nor unique; rather, they follow in the footsteps of the vast majority of Jewish religious thinkers of all generations.
- ¹⁷ Maharal refers to him thus, although the name of the book itself is *Maor Enayim*; ‘Imrei Bina’ is the name of one of its three parts. Its first edition was published in 1674. Concerning the controversy surrounding the book, see M. Benayahu, ‘Ha-Pulmus al Sefer Maor Enayim le-Rabbi Azariya min ha-Edomim’, *Asufot* 5, 1991, pp. 213–65.
- ¹⁸ Rabbi Azariya Dei Rossi, Mantova, c. 1513–Ferrara 1578.
- ¹⁹ Maharal, *op. cit.* – Be'er ha-Shishi, *op. cit.*, p. 135. Cf. Be'er ha-Rishon, *op. cit.*, p. 20: ‘For everything has different aspects to it ... In matters of practical halakha there is no doubt that one consideration is more important than the other ... and this is what is decisive; this is the halakha. Still, one should not say that the rest is worthless ... For Torah should be taught as something which has different aspects, but when it comes to halakha, one consideration takes precedence over another.’
- ²⁰ See M. Elon, *Ha-Mishpat ha-Ivri*, chapter 37, Jerusalem: Jewish Publication Society, 1994, pp. 1145–51, and pp. 236–9); Y.Z. Kahana, ‘Sifrei ha-Kitzurim mi-

Behinat Samkhutam ha-Hilkhatit', *Mehkarim be-Sifrut ha-Teshuvot*, Jerusalem: Mosad HaRav Kook, 1973, pp. 89–96; and Rabbi C. Tchernowitz ('Rav Tza'ir, 1870–1949) *Toldot ha-Poskim* 3, 1948, pp. 74–158. See also A.M. Rafeld, 'Hilkheta ke-Vatrai' Etzel Hakhmei Ashkenaz u-Polin be-Meot ha15-16: Mekorot u-Sefihin', *Sidra* 8, 1992, pp. 119–40; Y.M. Ta-Shema, *Halakha Minhag u-Metziut be-Ashkenaz*, Jerusalem: Magnes Publishing, 2000, pp. 58–78; Y. Yuval, 'Rishonim ve-Aharonim - Antiqui et Moderni (Toda'at Zeman ve-Toda'a Atzmit be-Ashkenaz)', *Tzion* 57, 1992, pp. 369–94; S.A. Wasner, '"Hilkheta ke-Vatrai" – Iyun Mehudash', *Shenaton ha-Mishpat ha-Ivri* 20, 1995–1997, p. 151).

²¹ *Responsa of Rabbi Yosef of Megas*, Jerusalem: Gitler, 1959, #114. For the historical background to the question posed to him, see S.D. Goitein, *Sidrei Hinukh mi-Tekufat ha-Geonim ad Beit ha-Rambam*, Jerusalem: Kiryat Sefer, 1962, pp. 167–9; Y.M. Ta-Shema, 'Yetzirato ha-Sifrutit shel Rabbeinu Yosef ha-Levi Ibn Megas', *Knesset Mehkarim* 2, 5764, 35–46; and see M. Breuer, *Ohalei Torah*, Jerusalem: Zalman Shazar, 2004, p. 85, n. 5.

²² Compare the argument of Rabbi Asher ben Yehiel (the Rosh; c. 1259–1327) in his debate with Rabbi Avraham ben David of Posquières, in his commentary on Sanhedrin, chapter 4, # 6: 'I say that, unquestionably, a person who errs in rulings of the Geonim, because he had not been aware of their opinion [on the matter at hand], and when he is told the ruling of the Geonim he recognizes that they are correct, then he has erred in a fundamental matter. And this applies to one who errs not only in rulings of the Geonim, but also rulings of the sages of all the succeeding generations – for those who came later were not like "reed cutters in the bog" (see

Sanhedrin 33a); they were likewise great scholars. If he ruled contrary to their view and, upon being told their opinion, he recognizes that they are right, and he acknowledges his error, then he has erred in a fundamental matter, and he retracts his opinion. But if he does not regard [the view of the Geonim] as correct and brings proofs for his views which are acceptable to the scholars of his generation, then 'Jephtah in his generation is like Samuel in his generation.' [The halakhic system] has nothing to rely on but the adjudicators of each generation, and they may refute their view [the view of sages of previous generations]. For everything that is not set forth in the Talmud, as codified by Rav Ashi and Ravina, may be refuted and reformulated; it is even possible to disagree with the opinion of the Geonim. This is the meaning of the exchange between Rav Huna, who said to Rav Sheshet, "Even concerning you and me?" And he answered him, "Are we then reed cutters in the bog?!" In other words, if we introduced something new from our own knowledge, which appears in neither the Mishnah nor the Gemara, and there was a judge who was unaware of our teaching and issued a ruling in another instance, and when he heard [our] teaching he considered it correct, then he is like someone who has erred in a fundamental matter, and he retracts. But it is clear that he may disagree with their words – just as the later Amoraim sometimes disagree with the earlier ones. In fact, we give preference to the words of the later sages, since they were aware of the thinking behind the conclusion of the earlier sages, and also the thinking behind their own conclusion, and they deliberated between these two trains of thought, and arrived at the essence of the matter ... If a knowledgeable scholar is certain of his position and is able to decide on the basis of one opinion, with clear proofs, then he

is permitted to do so ...' Hence, we conclude that Rabbi Avraham of Posquières adopts a position that is closer to that of Ibn Megas, while the Maharal's opinion is more closely aligned with that of the Rosh.

²³ In this matter Maharal identifies with the approach of his elder brother, Rabbi Hayim of Friedberg (1520–1588), who was a foremost opponent of the trend towards codification of halakha, as embodied in the enterprise of Rabbi Yosef Karo and Rabbi Moshe Isserles (Rema; 1520–1572). Rabbi Hayim clarified his approach at the beginning of his book *Vikuah Mayim Hayim*. A considerable portion of the introduction is devoted to criticism of a work entitled *Torat he-Hatat* by Rema – Rabbi Hayim's contemporary and a fellow student at the religious academy of Rabbi Shalom Shakhna. His attack on Rema's work is so sharp that after the first printing of his book (Amsterdam, 1710), this section was omitted from later editions. Eventually, Rabbi Hayim Tchernowitz (see above, n. 20) re-introduced it – see his work *Toldot ha-Poskim*, pp. 93–100. Rabbi Hayim of Friedberg brings two main reasons for his opposition to abridged codifications of halakha: firstly, their negative impact on the study of halakha – ‘they lead to laziness in the study of earlier works;’ and secondly, they lead to errors in halakhic rulings. He goes on to assert that these works go against the rich essence of halakha, with its diversity of opinions and the importance of its lack of uniformity. See in this regard, Maharshal (Rabbi Shelomo Luria, 1510–1573), introduction to *Yam Shel Shelomo* on Tractates Hullin and Bava Kama, and concerning our discussion see A.M. Rafeld, Maharshal ve-Samkhotam shel Sifrei Kitzur Hilkhatiyim – Iyyun be-Mivneh ha-Sefer 'Yam Shel Shelomo', *Shenaton ha-Mishpat ha-Ivri* 18–19, 1992–1995, 427–37; and also the introduction

of Rabbi Yom Tov Lipman Heller, a disciple of Maharal, to his commentary on the Mishna – Tosfot Yom Tov. See also Leon Wiener Dow: 'Opposition to the "Shulhan Aruch": Articulating a Common Law Conception of Halacha', *Hebraic Political Studies* 3.4, 2009, 352–76 – my thanks to my friend, Dr. Meir Seidler, for drawing my attention to this article.

²⁴ Based on the criticism expressed in Massekhet Sotah 22a: ‘A Tanna taught: “The Tannaim bring destruction upon the world.”’ Can anyone imagine claiming that they actually bring destruction upon the world? Ravina said: '[This castigation refers to the fact] that they issue halakhic instruction based on their teaching of [the literal text of] Mishna.' Similarly, Rabbi Yehoshua taught: 'Do they then bring destruction upon the world? Rather, they cultivate the world – as it is written, “His ways are ways of the world” (Havakuk 3:6). The condemnation, then, refers to those who instruct halakha based on their teaching of [the literal text of] Mishna.'

²⁵ On the subject of this emphasis on Talmudic study as the crux of religious scholarship, see also the much later essay by Rabbi Y.D. Ha-Levi Soloveitchik, *Ish ha-Halakha Galui ve-Nistar*, Jerusalem: World Zionist Organization, 1979, pp. 28–35. See op. cit. p. 31: ‘Where absolutely necessary and scholars are forced, against their own wishes, to issue actual practical rulings, this is merely a minor and unfortunate aspect [of their scholarship] to which halakhic personalities should not become accustomed. [Theoretical study of] halakha, rather than practical action, and the ideal rather than the real, represent the aspiration of Halakhic Man.’

²⁶ Compare Rabbi Aryeh Leib ha-Kohen Heller's introduction to his *Ketzot ha-Hoshen*: ‘For it is well-known that human intelligence cannot really truth as man is

earth bound ... thus a person, with human intelligence, cannot attain the real truth ... also the Oral Law was given in accordance with the rulings of the Sages, even though it might not [perfect] truth... .' See also Rabbi Moshe Feinstein's introduction to his *Iggerot Moshe* Responsa: 'We have already been told, "It is not in the heavens" – but rather as perceived by the scholar after he has studied properly in order to clarify the halakha in the Gemara and in the rulings of the Poskim, as far as he is able, in a responsible manner and with fear of God, and it appears to him that the ruling is such, then that is the truth for instruction, and he is obligated to instruct accordingly, even if it is in fact clear in Heaven that [the matter] is not to be understood thus. Concerning such instances we are told that the words of this scholar, too, are "the words of the living God," since to him it appears that the interpretation of the law is as he has ruled... . And he receives reward for his instruction, even though his interpretation does not accord with the truth.' See also Rabbi M. Feinstein, *Dibrot Moshe*, Shabbat #11: 'For if he instructs and judges in accordance with what he believes to be the true law, then what he rules is law, owing to the fact that it contains no error in a fundamental matter and in the logic applied - even if the truth is known in Heaven, that the law is not in accordance with his instruction. Because since the Torah permits and in fact obligates the sages and judges to instruct and to judge, and [rulings on practical questions] are 'not in heaven', then it is certainly possible that even the greatest person may sometimes be mistaken, and may not arrive at the Torah truth as it is revealed in Heaven... That is the true law, and it becomes the true law in this particular matter even in Heaven.'

And see the article by his son-in-law, Rabbi Moshe Tendler, *Tehumin* 9, p. 191, and that of Rabbi Tendler's son-in-law, Rabbi Shabtai Rappoport, 'Zikhru Torat Moshe Avdi: Le-Darko shel ha-Gaon Rabbi Moshe Feinstein bi-Pesika bi-She'elot Zemanenu,' in Yehuda Shaviv (ed.) *Mamlekhet Kohanim ve-Goy Kadosh*, Jerusalem: Reuven Mass, p. 384, as well as the doctoral dissertation of Harel Gordin, *Halakha u-Pesikat Halakha be-Olam Mishtaneh: Iyyun Beintehumi bi-Teshuvotav shel ha-Rav Moshe Feinstein*, Tel Aviv University, 2008. See also *Derashot ha-Ran*, 7th lesson.

²⁷ See end of the introduction to his *Mishneh Torah*, Bnei Brak: Frankel, 2001, *Sefer ha-Mada*, p. 4.

²⁸ See the gloss of Rabbi Avraham of Posquières ad loc.

²⁹ For an example of an alternative interpretation see Rabbi Moshe Feinstein, op. cit. *Iggerot Moshe*, Orah Hayim IV, #39.

³⁰ Another example, which we shall not elaborate on since it has been discussed extensively, concerns Maharal's attitude towards the 'pilpul' approach. He expresses his view on the matter in several different places: *Gur Aryeh* on Devarim 6:7; *Netivot Olam*, Netiv ha-Torah, chapter 5; *Derekh Hayim* on Avot 6:7; *Tiferet Yisrael*, chapter 56; *Be'er ha-Gula*, *Derashot Maharal*. Maharal unleashes vehement and unsparing criticism, mentioning 'corruption' and 'perversion' of meaning; 'false words,' and so on. To his view, 'pilpul' is appropriate neither as a method of Torah study nor as a tool for halakhic decision-making. For the purpose of our discussion it should be pointed out that the fact that Maharal addresses this subject again and again in his philosophical works, binding it with a philosophical

statement which may be summed up as 'This is not what the Giver of the Torah wants from us,' represents another instance in which halakha, philosophy, and education are inextricably interwoven. See S. Asaf, *Mekorot le-Toldot ha-Hinukh be-Yisrael* I, Jerusalem: Beit HaMidrash LeRabbanim BeAmerika 1951, p. 24; H.H. Ben-Sasson, *Hagut ve-Hanhaga*, Jerusalem: Mosad Bialik, 1958, pp. 22–33; A.P. Kleinberger, *Ha-Mahshava ha-Pedagogit shel ha-Maharal mi-Prague*, Jerusalem: Magness, 1962, pp. 21–3, 65–7, 139–42; D. Rappel, *Ha-Vikuah al ha-Pilpul*, Jerusalem: Dvir, 1980; G. Gizbar, op. cit., pp. 9–12, 177–82.