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The Political Theology of Rabbi Nachum Eliezer Rabinovitch

In May 2020 we received the painful news that Rabbi Nachum Eliezer Rabinovitch זצ"ל passed away at age 92. I was first exposed to R. Rabinovitch's religious philosophy while studying at his yeshivah in Ma'ale Adumim. Though I cannot claim to have been among his closest students, his ideas and approach to Torah left an indelible impact upon me. In an opening note to this article, which was composed before his passing but has been modified to reflect it, I had written that I intended for the essay to serve as a testament to my gratitude. I now intend that it will serve, in addition, as a small tribute to his legacy.

Beyond pushing and inspiring his students to develop their commitment to the principles of Torah u-Madda, R. Rabinovitch also stressed the need for independent thought and intellectual honesty. This article attempts to impartially explain and assess R. Rabinovitch's own religious philosophy, and it is my hope that in doing so it will emulate the integrity that he and his teachings instilled in us. May his memory and legacy be a blessing.

Rabbi Dr. Nachum Eliezer Rabinovitch was among the prominent rabbinic figures in the Religious Zionist movement in Israel and abroad. He was a renowned halakhic authority and a prolific writer. In addition to his many works dedicated to Talmud and Jewish law, a significant portion of his

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writings focus on the realm of Jewish philosophy. Despite his expansive body of work and influence in the Religious Zionist world, however, R. Rabinovitch has received limited attention from scholars.¹ This essay aims to help fill this gap by analyzing one of the central aspects of R. Rabinovitch's thought: political theology.

Background

In our context, political theology will be taken to mean a view of the ideal state—its role, structure, and proper functioning according to religious precepts. I will begin this study with an overview of R. Rabinovitch's approach to the purpose and nature of the *mizvot*. While at first glance this may seem unrelated to his political thought, it is actually the base upon which R. Rabinovitch builds his approach to the aim and function of the state. Next, I will present the central aspects of R. Rabinovitch's political thought: a clear distinction between civil and religious authority, the concept of “partnership,” and strict limitations on government power. These points lead R. Rabinovitch to criticize several aspects of the current system of government in the State of Israel.

As may be expected from a halakhic scholar and avowed Maimonidean, R. Rabinovitch grounds his views primarily in the Talmud and classic works of Jewish law, in particular those of Maimonides. However, there are also clear parallels between R. Rabinovitch's political theology and the central tenets of political liberalism. Indeed, at times R. Rabinovitch's reading of Jewish sources is directly influenced by this philosophical tradition, especially the writings of John Locke.

R. Rabinovitch was born in Montreal in 1928 and studied there under the tutelage of R. Pinchas Hirschprung and later under R. Yaakov Yitzchok Ruderman at Yeshivas Ner Yisroel in Baltimore.² After receiving

1. Brief discussions of various aspects of R. Rabinovitch's thought can be found in Allan Nadler, “Maimonides in Ma'ale Adumim,” *The Jewish Review of Books* (Summer 2018), retrieved from <https://jewishreviewofbooks.com/articles/3235/maimonides-in-maale-adumim>; Gamliel Shmalo, “Orthodox Approaches to Biblical Slavery,” *The Torah u-Madda Journal* 16 (2012-2013): 14-18; Yair Sheleg, *Following the Multitude: Rabbinic Attitudes Towards Democracy in Israel* (Hebrew), Policy Paper 67 (Jerusalem: Israel Democracy Institute, 2006), 68-71; Aviezer Ravitzky, “Is a Halakhic State Possible? The Paradox of Jewish Theocracy,” in *Israeli Democracy at the Crossroads*, ed. Raphael Cohen-Almagor (New York: Routledge, 2005), 155.

2. For short biographical sketches, see Nadler, “Maimonides”; Zvi Heber and Carmiel Cohen (eds.), *Mi-Birkat Moshe: Maimonidean Studies in Honor of Rabbi Nachum Eliezer Rabinovitch* (Hebrew) (Maaleh Adumim: Maaliyot, 2011), vol. 2, 995; Sheleg,

his rabbinic ordination, R. Rabinovitch served as the rabbi of various communities throughout North America. Alongside his religious endeavors, he also earned a Ph.D in mathematics from the University of Toronto and published several articles in the field of statistics and probability. In 1971, R. Rabinovitch became the dean of Jews' College, the rabbinic seminary of the English Chief Rabbinate. Among his students during this period was R. Jonathan Sacks.³ In 1983, R. Rabinovitch left England for Israel in order to assume the position of Rosh Yeshivah at Yeshivat Birkat Moshe, a *hesder* yeshivah in Ma'ale Adumim.⁴ He held this position until his retirement in 2015. In addition, R. Rabinovitch served as a member of the rabbinic boards of the *Encyclopedia Talmudit* and Eretz Hemdah, a prominent Religious Zionist *beit din*.

R. Rabinovitch's magnum opus is a massive commentary on Maimonides' *Mishneh Torah*, entitled *Yad Peshutah*. In addition, he penned works of talmudic commentary, halakhic responsa, and close to two hundred articles in various religious and academic publications.⁵ In 1998, R. Rabinovitch published *Darkah shel Torah (The Way of Torah)*, a collection of essays on Jewish thought and contemporary issues. An expanded version of this book was published in 2015 under the title *Mesillot bi-Levavam (Pathways in their Hearts; cf. Ps. 84:6)* and includes both revisions of earlier pieces and several new essays.⁶ It is in these two books that the majority of R. Rabinovitch's discussions of political theology can be found. In addition, R. Rabinovitch wrote one other substantial article dealing with matters of political theory, entitled "*Am*

Following the Multitude, 68; Ido Pachter, "The Last Rambamist" (Hebrew), *Makor Rishon*, April 6, 2012, retrieved from <http://musaf-shabbat.com/2012/04/05/עידו-פכטר-הרמבמיסט-האחרון>. In addition, some autobiographical information can be found in the preface to Nachum Eliezer Rabinovitch, *Hadar Itamar* (Hebrew) (Jerusalem: Mossad HaRav Kook, 1972).

3. R. Sacks reflects on his relationship with R. Rabinovitch in Jonathan Sacks, "R. Nachum Rabinovitch: A Tribute," in *Mi-Birkat Moshe*, vol. 2, i–x.

4. English spellings of the city's name vary. When referring to the yeshivah in the text I follow the spelling "Ma'ale Adumim" found on the Birkat Moshe website. In the notes, I follow the spelling used in the various article titles or in the bibliographic information of the various books I cite, e.g. "Maaleh Adumim."

5. For a full bibliography of his works through 2011, see *Mi-Birkat Moshe*, vol. 2, 995–1007.

6. Nachum Eliezer Rabinovitch, *Mesillot bi-Levavam: Individual, Society, and State in the View of the Torah* (Hebrew) (Maaleh Adumim: Maaliyot, 2015). All translations from the Hebrew are my own unless otherwise noted. A portion of the material that I will analyze was originally published in articles and essays written in English. In such cases, I will quote from the English version of the text.

Zu Yazarti Li” (“The People I Formed for Myself”; cf. Is. 43:21), which was published by the Israel Democracy Institute in a collection of essays by various Israeli academics and intellectuals.⁷

R. Rabinovitch was a leading rabbi of the settler movement and strongly identified with Israel’s political right. He was an ardent opponent of the Oslo Accords in the early 1990s and was accused by some of making inciting comments in the period leading up to the assassination of Prime Minister Yitzhak Rabin. Such accusations were never proven, and R. Rabinovitch denied them forcefully. In the decades since, R. Rabinovitch was more guarded in his political activism. However, he was consistent in his support of the expansion of Jewish settlements over the Green Line and the rights of Jews living there. For example, he was extremely vocal in his objection to the removal of Israeli settlements in the Gaza Strip through the Disengagement Plan. When the plan was eventually carried out by the Israeli government in 2005, he joined several other Religious Zionist leaders in calling upon IDF soldiers to refuse orders. R. Rabinovitch’s reasoning for this, however, differed significantly from that of many of his peers, as we will see.

Indeed, despite his standing as an eminent *rosh yeshivah* and *posek* in the Religious Zionist world, R. Rabinovitch presented a unique voice and often advocated views exceptional for a figure of his stature. Beyond the example just mentioned, R. Rabinovitch encouraged observant Jews to ascend the Temple Mount and was the leading figure behind *Giyzur ka-Halakhah*, an alternative system of religious courts that challenges the Israeli Chief Rabbinate’s monopoly on conversion.⁸ In addition, he expressed support for women serving as communal leaders, halakhic authorities, and even rabbinic judges.⁹ Likewise, he endorsed women-only prayer groups as a solution for those who wish to take a more

7. Nachum Eliezer Rabinovitch, “*Am Zu Yazarti Li*” (Hebrew), in *The Jewishness of Israel*, ed. Aviezer Ravitzky and Yedidia Stern (Jerusalem: Israel Democracy Institute, 2007), 671–721. A version of this essay was reprinted in *Mesillot bi-Levavam*, but with a slightly different orientation. In this article, I will refer to the original version.

8. Regarding the Temple Mount, see Rabinovitch, *Mesillot bi-Levavam* 348–49. For one of several reports about *Giyzur ka-Halakhah* in the Israeli news media, see Amanda Borschel-Dan, “Gathering Pace, Rogue Israeli Conversion Court Racks Up New Jews,” *Times of Israel*, November 18, 2015, retrieved at <https://www.timesofisrael.com/gathering-pace-rogue-israeli-conversion-court-racks-up-new-jews/>.

9. For example, see Rabinovitch, *Mesillot bi-Levavam*, 434–36; Sheleg, *Following the Multitude*, 71; Pachter, “The Last Rambamist.”

active role in prayer services.¹⁰ Importantly, R. Rabinovitch's iconoclastic positions are often deeply rooted in his political theology.

The Purpose and Nature of the *Mizvot*

In the opening remarks to *Darkah shel Torah*, R. Rabinovitch makes the following statement in presenting his general methodology:

Despite the variety of subjects, the common denominator [in these essays] is an attempt to explain a particular aspect of Maimonides' thought and its consequences for problems that appear, at first glance, unique to our generation.¹¹

Moreover, he states that “the axis upon which each discussion pivots is distinctly halakhic.” In this R. Rabinovitch sees himself as continuing the Maimonidean approach. According to him, “a fundamental pillar of Maimonides' philosophical system is that it is anchored in Halakhah.”¹²

The importance of halakhic models and Maimonidean conceptions in R. Rabinovitch's writing is made clear when we analyze his understanding of the function and nature of the *mizvot*. Furthermore, not only does R. Rabinovitch's philosophy of the *mizvot* demonstrate the methods he uses to build and develop his ideas, but it is also an important preface to his political theology.

In *Guide of the Perplexed* (III:27) Maimonides first states that the Torah as a whole has two goals: “the welfare of the body and the welfare of the soul” (*Guide* III:27:510).¹³ The “welfare of the body” refers to “the improvement of [the multitude's] ways of living one with another.” This is achieved through “the abolition of their wronging each other” and the acquisition of “moral qualities that are useful for life in society.” In contrast, the “welfare of the soul” refers to the “acquiring [of] correct opinions” by the masses. A properly functioning society is a prerequisite

10. Ariel Horowitz, “The Existential Concern of the Elder Statesman of *Hesder Yeshivot*” (Hebrew), *Makor Rishon*, September 13, 2017, retrieved from <https://www.makorrishon.co.il/nrg/online/11/ART2/897/649.html>.

11. Nachum Eliezer Rabinovitch, *Darkah shel Torah: Halakhic Perspectives on Current Issues* (Hebrew) (Jerusalem: Maaliyot, 1998), iii.

12. R. Rabinovitch makes a similar argument regarding the halakhic base of Maimonides' philosophy elsewhere as well; see his *Studies in Maimonides* (Hebrew), 2nd ed. (Jerusalem: Maaliyot, 2010), 193.

13. English translations of the *Guide* are taken from Moses Maimonides, *Guide of the Perplexed*, trans. Shlomo Pines (Chicago: University of Chicago Press, 1963). Citations will indicate part, chapter, and then page number(s).

for allowing them to achieve these “correct opinions.” Thus, the goal of “welfare of the body” is “prior in nature and time” to the goal of “welfare of the soul.” However, since society is merely a means to these intellectual ends, the “welfare of the soul” is the primary goal.

Maimonides further distinguishes the society-oriented notions “welfare of the body” and “welfare of the soul” from the individual-oriented concepts he calls “perfection of the body” (being physically healthy and in “the very best bodily state”) and “perfection of the soul” (having “an intellect in actu” and acquiring “opinions toward which speculation has led and that investigation has rendered compulsory”) (*Guide* III:27:511). With regard to perfection, just as with regard to welfare, Maimonides again stresses the means-ends relationship: “perfection of the body” is a prerequisite for “perfection of the soul,” and the latter is the “ultimate perfection.” According to Maimonides, the attainment of the combination of these goals is what makes the Torah unique and is the mark of a divine law. (See also *Guide* II:40:383-84.)

R. Rabinovitch builds upon this conceptualization and argues that the Torah employs a “two-fold” system.¹⁴ On the one hand, it establishes an *ideal* by “convey[ing] concepts, instill[ing] eternal values, and direct[ing] people to the service of God on the highest levels.” On the other hand, it relates to the *real* by employing “legislation and commands to combat the forces of evil and destruction that erupt within the individual’s soul and the nation’s spirit.” This legislation of the real must also account for “each generation’s situation and the social, economic, and cultural circumstances.” Moreover, such flexibility in practice allows for the lofty goals and values of the Torah to remain a part of the Jewish People, even though they may not yet be ready to live up to them in the fullest sense.

Accordingly, R. Rabinovitch states that “given the dictates of circumstance, the Torah did not require that [these principles] be applied in full at the outset.”¹⁵ Rather, “it taught society to advance step by step until the goal could be fully achieved.” This, he notes, is what Maimonides meant when he observed that “out of concern over what the soul by its nature could not accept . . . God diverted them from the straight path that was the primary goal” (*Guide* III:32).¹⁶ As R. Rabinovitch himself

14. Nachum Eliezer Rabinovitch, “The Way of Torah,” trans. Joel Linsider, *The Edah Journal* 3:1 (2003): 6–7, retrieved at http://www.edah.org/backend/JournalArticle/Rabinovitch3_1.pdf.

15. *Ibid.*, 9.

16. This statement is cited as the translator of R. Rabinovitch’s article presents it, rather than as Pines translates it. It is worth noting that while R. Rabinovitch speaks here of

suggests, this division between the real and the ideal is based in Maimonides' own division between the "welfare of the body" and the "welfare of the soul." This is because in both divisions the Torah utilizes certain *mizvot* as tools to create a society that supports the achievement of far greater spiritual goals.

Among the examples that R. Rabinovitch uses to demonstrate this point is the institution of slavery.¹⁷ In truth, he posits, slavery stands in direct contradiction to the moral code of the Torah. Judaism views each person as created in the "image of God" (*Zelem Elokim*) and equal before Him. The Torah, however, was prevented from outlawing slavery, as ancient society could not adhere to such a law for reasons both practical and ideological. Instead, Jewish law saw to it that a master's control over his slave was limited and that certain basic rights of the slave were protected. According to R. Rabinovitch, these laws "set a floor that prevented [the Jewish People's] descent to the vile conduct of the nations," until, over time, social, technological, and economic changes made it possible for slavery to be abolished and for the "exalted ideal taught by the Torah" to be realized.¹⁸ R. Rabinovitch further maintains that not only did the Torah's laws prevent the moral degradation of the Jewish People, but the eventual spread of Jewish values was a decisive factor in the Western world's push to end slavery.

In a similar fashion, R. Rabinovitch builds on central themes in Maimonides' thought in developing what can be termed an empirical approach to *mizvot*. Throughout his writings, Maimonides attributes special importance to the natural sciences, seeing in them the so-called "account of the beginning" (*Ma'aseh Bereshit*).¹⁹ Going beyond this, R. Rabinovitch gathers a myriad of sources to demonstrate Maimonides' "emphasis on the importance of observations in which to ground theories, theories that can be formulated so as to make predictions which can then be verified or falsified by further observations."²⁰ In tandem, R.

moral development, Maimonides defines the "primary goal" as chiefly an intellectual one: "the apprehension of Him, may He be exalted, and the rejection of idolatry" (*Guide* III:32:527).

17. Rabinovitch, "The Way of Torah," 8–12. For a detailed treatment of R. Rabinovitch's approach to slavery, see Shmalo, "Orthodox Approaches to Biblical Slavery," 14–18.

18. Rabinovitch, "The Way of Torah," 9, 12.

19. See *Guide*, "Introduction to the First Part" (Pines, 6); *Commentary on the Mishnah*, *Hagigah* 2:1; and *Mishneh Torah*, *Hilkhot Yesodei ha-Torah* 4:10.

20. Nachum Eliezer Rabinovitch, "Rambam, Science, and *Ta'amei ha-Mitzvot*," in *Hazon Nahum: Studies in Jewish Law, Thought, and History Presented to Dr. Norman Lamm on the Occasion of his Seventieth Birthday*, ed. Yaakov Elman and Jeffrey S.

Rabinovitch posits that Maimonides applies these ideas to his attempt to understand the rationale for the various *mizvot* (*ta'amei ha-mizvot*). Simply put, the best way to understand the meaning of a particular *mizvah* is through empirical observation.

In order to support this claim, R. Rabinovitch notes the many times that Maimonides emphasizes that each *mizvah* has a “useful end” or a “manifest utility” (*Guide* III:26:507). Similarly, Maimonides often endeavors to demonstrate the real-world benefits of individual laws. R. Rabinovitch concludes from all this that if the true “utility” of any *mizvah* must be practical and discernible, then in order to understand the reason behind any given law one must attempt to discern the positive effects—be they sociological, psychological, or otherwise—of keeping them. Although he does not say so explicitly, it seems that in emphasizing this, R. Rabinovitch—like Maimonides before him—also wishes to repudiate mystical approaches that maintain that the *mizvot* have supernatural effects and indeed the power to influence the Divine.²¹

With this empirical view in hand, R. Rabinovitch returns to Maimonides’ twin goals of the *mizvot* mentioned previously: “welfare of the body” and “welfare of the soul.” He argues that if the Jewish People can be said to have ethical traits that set them apart, or if they have managed to avoid societal ills that have plagued other groups, it “cannot be seen as a hereditary trait, but rather [it is the result of] the influence of the Torah.”²² Like Maimonides before him, R. Rabinovitch rejects the view, popular in mystic thought, that Jews are ontologically superior to non-Jews.²³

Gurock (New York: Yeshiva University Press, 1997), 188. It is worth noting that in this piece, written for both a religious and academic audience, R. Rabinovitch discusses various academic approaches to Maimonides in general and his view of the natural sciences and the empirical method in particular. This discussion is absent, however, in the expanded Hebrew version of the article included in *Darkah shel Torah* and *Mesillot bi-Levavam*.

21. For an in-depth discussion of the differences between Maimonides’ view of Jewish law and that of Jewish mysticism, see Menachem Kellner, *Maimonides’ Confrontation with Mysticism* (Oxford: Littman Library of Jewish Civilization, 2006), 33–84. In reference to Maimonides’ conception of “welfare of the body” and “welfare of the soul,” Kellner summarizes: “All the commandments are tools, designed by God to teach truth, institute justice, or inculcate morality. There is no room here for effecting change in the world around us, still less in the world above” (*ibid.*, 61). Unlike Maimonides, the mystics see the *mizvot* as “a recipe for effecting ontological change in the universe.”

22. Rabinovitch, *Mesillot bi-Levavam*, 177. See, also *ibid.*, 464–65.

23. Regarding Maimonides’ view as opposed to that of Jewish mysticism, see Kellner, *Maimonides’ Confrontation*, 216–64. Kellner notes that mystical thinkers almost invariably believe that “Jews by birth are innately superior to non-Jews,” and he posits

Any differences are not immanent, but are rather evidence that the *mizvot* have indeed led the Jewish People towards “welfare of the body.”

In addition, R. Rabinovitch argues that other *mizvot* can be observed as advancing the faithful towards “correct opinions through which ultimate perfection [i.e., perfection of the soul] is achieved” (*Guide* III:27:511). For example, the *mizvah* of repentance (*teshuvah*) reinforces the “correct opinion” that humanity is endowed with free will.²⁴ The requirement that one accept responsibility for their actions and endeavor to change future conduct both necessitates and fortifies belief in free will.

The final aspect of R. Rabinovitch’s approach to the nature and function of the *mizvot* centers around this very point—that God grants humanity absolute freedom of will. Based on Maimonides’ rulings in *Hilkhot Teshuvah*, R. Rabinovitch emphasizes:

The image of God is man’s unique quality that elevates him above all other creatures. It is the capacity of free will . . . and only in the exercise of that free choice does man actualize his essence.²⁵

Indeed, there can be no doubt that the subject of free will plays a central role in Maimonides’ theology.²⁶ Moreover, Maimonides himself

that this view has “become a basic axiom of most varieties of Jewish Orthodoxy today” (*ibid.*, 220). Maimonides, however, saw no inherent differences between Jew and Gentile. Rather, he maintained that “Jews have an advantage over non-Jews because the Torah guides them more effectively than any other system of laws, first to moral perfection (a prerequisite for intellectual perfection) and then to intellectual perfection” (*ibid.*, 229).

24. Rabinovitch, *Mesillot bi-Levavam*, 171–76.

25. Rabinovitch, “The Way of Torah,” 3. I have slightly adjusted the translation here in order to better reflect the intent of the original. In this passage, R. Rabinovitch makes use of the Hebrew terms *behirah hofshit* and *razon hofshi*. In his writings R. Rabinovitch uses the term *behirah hofshit* when referring to the philosophical concept, and thus the term will be rendered in English as “free will.” In contrast, *razon hofshi* is typically used in the normative sense of personal autonomy and will therefore be rendered as “free choice.”

26. For example, see *Mishneh Torah, Hilkhot Teshuvah*, ch. 5; *Commentary on the Mishnah*, Introduction to *Mishnah Avot*, ch. 8; and *Guide* III:17. In the *Mishneh Torah*, Maimonides refers to free will as a “great principle” and “pillar of the Torah” (*Hilkhot Teshuvah* 5:3). However, his view of the subject in the *Guide* is less clear and has led to much debate among scholars. For a brief overview of the various views, see Shalom Sadik, “Maimonides’ Mechanic of Choice” (Hebrew), *AJS Review* 38:1 (2014): 1–4. For his part, R. Rabinovitch reads Maimonides’ approach in the *Guide* as complementary to that of the *Mishneh Torah*. See his *Mishneh Torah with Commentary Yad Peshutah: Sefer ha-Mada* (Hebrew) (Jerusalem: Maaliyot, 2007), 939–46. Indeed, this is consistently R. Rabinovitch’s approach to the oft-debated nature of the relationship between the two works.

draws a connection between free will and the nature of the *mizvot*. In the *Guide*, he writes: “If it were His will to change the nature of every man to that which He, may He be exalted, seeks from the individual, the mission of all the prophets and all that is commanded would be useless.”²⁷ The straightforward meaning of this statement appears to be that there is no logical reason for God to command, nor for the prophets to preach, if humanity’s actions are preordained and beyond their control. However, R. Rabinovitch presents this quote and expands upon it in light of his aforementioned statement regarding free choice:

Obedience to the commandments has value only if it flows from man’s free choice. Otherwise it is nothing other than a purely mechanical act.

In other words, in order for the fulfilling of a *mizvah* to have true religious value, it must be done free of coercion or outside force.

In keeping with his description of the *mizvot* as leading individuals and society toward the ideals established by the Torah, R. Rabinovitch sees Jewish history as witness to a gradual process by which the People of Israel advance, stage after stage, toward the service of God through absolute freedom of choice. As he puts it:

The Torah that was given to them guides and molds Israel’s image and makes Israel fit to attain the desired goal—making use of *Zelem Elokim* in order to resemble Him in all His ways.²⁸

As an example of such a development, R. Rabinovitch quotes the Talmud Yerushalmi, which records that R. Shimon bar Yoḥai praised the fact that the rabbis lost the authority to adjudicate both civil law and capital crimes (*Yerushalmi Sanhedrin* 1:1). Most commentators, R. Rabinovitch notes, understand R. Shimon’s seemingly strange statement as an expression of joy over the fact that the rabbis were now enjoined to push litigants to reach a compromise, as they could no longer force them to accept the judgment of the *beit din*. This should be seen, continues R. Rabinovitch, not as negation of Torah law, but rather as the ascension of the law to a higher level—one free from coercion and based on willing acceptance.²⁹ Likewise, he posits, despite the fact that contemporaneous

27. Rabinovitch, “The Way of Torah,” 4. The quotation from the *Guide* (III:32) is cited as the translator of R. Rabinovitch’s article renders it. In the Pines translation the corresponding passage is on p. 529.

28. *Ibid.*

29. Rabinovitch, *Mesillot bi-Levavam*, 358–59. R. Rabinovitch goes so far as to quote R. Yosef Eliyahu Henkin, who posits that the loss of rabbinic authority to enforce and punish may be seen as a harbinger of the Messiah. R. Rabinovitch reflects upon his

rabbinic authorities may have certain powers of coercion, they should endeavor not to use them.³⁰

These three aspects of R. Rabinovitch's understanding of the *mizvot*—the Torah's call to the ideal and legislation of the real, the empirical view of Jewish law, and the central role of free choice—give a clear sense of his general religious ideology. They also demonstrate nicely how he builds upon and develops ideas within the legal and philosophical teaching of Maimonides. Moreover, his philosophy of the *mizvot* will be shown to maintain a close connection to his political theology.

Political Theology: The Civil and the Spiritual

R. Rabinovitch begins his discussion of the proper role of the state and the extent of its powers by invoking Maimonides' distinction between the Torah's two goals: "welfare of the body" and "welfare of the soul." R. Rabinovitch assigns responsibly for the "welfare of body" to the civil leadership. This is in keeping with Maimonides, who states that this goal pertains to the "governance of the city and the wellbeing of the states of all its people" (*Guide* III:27:510) and that it can only be achieved "through a ruler who gauges the actions of the individual . . . and who prescribes actions and moral habits" (*Guide* II:40:382). In R. Rabinovitch's words:

[The] legal system of Torah consists of two parts. One, the proper jurisdiction of the government, deals with affairs of society. The other, the commandments between man and God, belongs to every Jew.³¹

In other words, as he phrases it elsewhere, the role of the state is to ensure the "welfare of the body."³² However, the state may not involve itself in the "welfare of the soul." Indeed, R. Rabinovitch goes on to create a very clear boundary between the role of political leaders and the religious aspirations of the individual:

The rulers are charged with implementing the laws between man and his fellow man, and are granted wide legislative and administrative powers

relationship with R. Henkin in Pachter, "The Last Rambamist," and cites his halakhic views in *Responsa Siah Nahum* (Hebrew) (Jerusalem: Maaliyot, 2008), #48, #111.

30. Rabinovitch, *Mesillot bi-Levavam*, 335.

31. Nachum Eliezer Rabinovitch, "The Civil and the Spiritual," *The Jerusalem Report*, February 6, 1992. In this brief piece, a homily on the weekly Torah reading, he does not mention Maimonides' view in the *Guide*. However, in the parallel in *Mesillot bi-Levavam* (299-301), he opens by quoting *Guide* III:27.

32. Rabinovitch, *Mesillot bi-Levavam*, 340-41.

in this realm. . . . However, no Jewish government or king has any status at all with respect to [the religious and the ritual]. The ultimate goals of spiritual welfare are to be achieved by means other than government.³³

According to R. Rabinovitch, this distinction between the “civil and the spiritual” has been part and parcel of Jewish self-governance throughout its history. Further, he maintains that Jewish law traditionally established “two parallel authorities for legislation and adjudication.”³⁴ One is that of the king and those appointed by him, while the other is that of the Sanhedrin and the *batei din* subordinate to it. Even after the end of the monarchy in Israel, R. Rabinovitch posits, this separation of powers continued. The role of the king was subsequently filled by the Exilarch, in a later period by the local council known as the *Tovei ha-Ir* (Good Men of the City), and in the modern State of Israel by its elected government.³⁵ Despite their obvious differences, these later institutions maintain the same basic function as the king: ensuring the proper running of civil society, i.e., the “welfare of the body.” However, they may not involve themselves in religious matters.³⁶ The “welfare of the soul” remains beyond the scope of their authority and belongs instead to religious authorities.

R. Rabinovitch does grant that some kings, in particular David and those from his line, are described by the Talmud as deciding matters of Jewish law.³⁷ However, he maintains that they were able to do so due to their personal piety, not because of their standing as monarchs.

While the identification of the *Tovei ha-Ir* as the inheritors of the power and authority of the king of Israel has precedent in halakhic literature, this is not a simple matter. Classic halakhic texts tend to view this institution instead as assuming the powers and authority granted to the rabbinic courts.³⁸ Indeed, R. Rabinovitch’s choice to identify the

33. Rabinovitch, “The Civil and the Spiritual.”

34. Rabinovitch, *Mesillot bi-Levavam*, 301.

35. *Ibid.*, 302–303, 349–50.

36. *Ibid.*, 341–43.

37. *Ibid.*, 309–11. To the best of my knowledge, R. Rabinovitch does not directly address biblical examples, in particular the reforms enacted by Hezekiah (2 Kings 18; 2 Chron. 31) and Josiah (2 Kings 22–23; 2 Chron. 34–35). It seems he would likewise argue that these are exceptional cases and the result of personal piety or extenuating historical circumstances.

38. See Menachem Elon, *Jewish Law: History, Sources, Principles* (Hebrew) (Jerusalem: Magnes Press, 1988), 580 n. 105. Elon notes that while from a historic perspective the *Tovei ha-Ir* can be seen as inheriting the authority granted to the king and later forms of Jewish self-governance, most halakhic authorities view the *Tovei ha-Ir* as assuming the

Tovei ha-Ir with the king and not a *beit din* is important, as it allows him to maintain a clear distinction between the religious and civil authorities within the Jewish political tradition.

Likewise, some of the practical limits R. Rabinovitch would place on the power of the modern Israeli government are contingent on it being a continuation of the king. For example, R. Rabinovitch quotes Maimonides' ruling that a king may not appropriate private property.³⁹ Since the Israeli government is seen as an extension of the *Tovei ha-Ir*, and this institution itself is taken to be an extension of the monarchy, R. Rabinovitch argues that this limitation applies to it as well. This would not be the case, however, if the *Tovei ha-Ir* were seen as inheriting the powers of a *beit din*, since religious courts are given a larger measure of authority to confiscate private assets (*hefker beit din hefker*).⁴⁰

In parallel to the clear division of responsibilities between the king and the Sanhedrin, R. Rabinovitch also draws a clear division between their respective sources of authority. The Sanhedrin, not surprisingly, draws its authority from the Torah. Of course, no other religious body can lay claim to the overarching authority to mold religious law and adjudicate matters on a national level that is granted to the Sanhedrin. However, contemporary religious leaders nevertheless remain the sole authority in questions of Torah law.⁴¹ This does not contradict the fact that spiritual matters remain the realm of the individual. Indeed, states R. Rabinovitch, these rabbis must maintain widespread public support

powers granted to a *beit din*. See also “*Tovei ha-Ir*,” *Encyclopedia Talmudit* (Jerusalem: Yad HaRav Herzog, 2000), vol. 17, 72-99, in particular the section “*Takanoteihem le-Tovat ha-Ir*” (78-83). For a brief historical introduction to this institution and an overview of pertinent source texts, see Michael Walzer et al. (eds.), *The Jewish Political Tradition, Vol. 1: Authority* (New Haven: Yale University Press, 2000), 379-429.

39. *Hilkhot Melakhim* 3:8. See Rabinovitch, *Mesillot bi-Levavam*, 307.

40. R. Rabinovitch also highlights this distinction between the king and the *beit din* in his *Yad Peshutah* commentary on *Hilkhot Melakhim* 3:8. Based on Maimonides' ruling that the king “may not cause the forfeiture of assets” (*lo yafkir mamon*), R. Rabinovitch writes:

The authority of the king differs in this regard from the authority of a *beit din* when making temporary enactments (*hora'at sha'ah*) and ensuring the welfare of society (*tikkun olam*). In *Hilkhot Sanhedrin* 24:6, he [Maimonides] rules: “A rabbinic judge may always cause the forfeiture of assets (*le-hafkir mamon*) that have owners and abrogate their rights as he sees fit...” (Rabinovitch, *Mishneh Torah with Commentary Yad Peshutah: Sefer Shofetim* [Hebrew], [Jerusalem: Maaliyot, 2011], 445; emphasis in the original).

41. Rabinovitch, *Mesillot bi-Levavam*, 367-68.

in order for their decisions to have legitimacy. But nevertheless, their authority over the spiritual is vested in them, ultimately, by the Torah.

In contrast, the civil leadership is granted its authority by the consent of the governed.⁴² Drawing upon a plethora of biblical and talmudic sources, R. Rabinovitch argues that the authority of the king of Israel was based “in the consent of the people and his selection by God’s prophet.” As long as the king retained this support and did not overstep his boundaries, the Torah recognized him as the legitimate head of state and granted him the power to promulgate and enforce civil law. If the king were to lose the consent of the governed or abuse his power, he would lose that authority. To be sure, the biblical record often portrays kings as enjoying almost unchecked power and ignoring the will of the people. Nevertheless, for R. Rabinovitch, the need for popular consent remains the Torah’s ideal, especially when viewed through the lens of rabbinic literature. He approvingly quotes R. Nissim of Gerona (himself quoting R. Yonah): “To the extent that the masses wish to glorify a king, he will rule; yet should they wish to strip him of his glory, the king will forfeit his sovereignty entirely.”⁴³

Moreover, these basic rules apply to the later forms of government that subsequently replace the monarchy. This is seen clearly, states R. Rabinovitch, in the case of the *Tovei ha-Ir*, who were appointed by “majority vote among the citizens” and answered directly to them.⁴⁴ From a historical standpoint, this probably overstates the case.⁴⁵ However, a

42. Ibid., 306. R. Rabinovitch makes a similar point in the midst of a talmudic discourse on a section from *Ta’anit*; see *Hadar Itamar*, 72.

43. Rabinovitch, *Mesillot bi-Levavam*, 312. This quote is found in *Derashot ha-Ran, Derashah* 11. The English translation is taken from Aviezer Ravitzky, *Religion and State in Jewish Philosophy: Models of Unity, Division, Collision and Subordination*, trans. Rachel Yarden (Jerusalem: Israel Democracy Institute, 1998), 79. Regarding this and other liberal democratic themes found in the works of R. Nissim, see Warren Zev Harvey, “Liberal Democratic Themes in Nissim of Girona,” in *Studies in Medieval Jewish History and Literature III*, ed. Jay M. Harris (Cambridge: Harvard University Press, 2000), 197-211. While Harvey focuses on other themes, he notes in passing R. Nissim’s “insistence that government is for the sake of the people,” citing *Derashah* 11 (209). Indeed, based on Harvey’s analysis, there appear to be several parallels between R. Nissim’s political thought and that of R. Rabinovitch. Nevertheless, there is at least one crucial difference: Harvey notes that the liberal democratic theme of separation of religion and state is not to be found in Ran’s thought (211, n. 17), whereas this is central to R. Rabinovitch’s political theology, as we will discuss.

44. Rabinovitch, *Mesillot bi-Levavam*, 315.

45. Regarding the appointment of communal leaders in medieval Ashkenaz, for example, see Jacob Katz, *Tradition and Crisis: Jewish Society at the End of the Middle Ages*, trans. Bernard Cooperman (New York: Syracuse University Press, 2000), 88-94.

number of halakhic authorities do indeed maintain that the members of this council were to be selected, at least in theory, in this manner.⁴⁶

R. Rabinovitch anchors the ability of citizens to appoint a leader for themselves, be it a king or a local council, in the concept of “partnership” (*shuttafut*).⁴⁷ The Mishnah (*Bava Batra* 1:1-6) discusses the mutual responsibilities of “partners” (*shuttafin*) in developing common property. Included in this are certain responsibilities towards the city that are shared by its residents (1:5). According to R. Rabinovitch, the Talmud goes on to develop this principle in such a way that:

The city, as a legal entity, is understood as a partnership between its residents in which they divide amongst themselves the obligations for ensuring its proper administration, just as they do the rights and benefits that the city grants.⁴⁸

This being the case, the members of the city may choose to grant the authority that they hold as “partners” to a particular leader or group of leaders.⁴⁹ For R. Rabinovitch, what is true of a city is true of a nation as well. The state is seen as a “partnership” of its citizens, who may transfer the authority they have to a government.

Additionally, citing the Talmud Yerushalmi (*Gittin* 5:9), R. Rabinovitch notes that this conception means that non-Jewish citizens should also be an equal part of the civil leadership, as they too are “partners” in the city.⁵⁰ It could be objected that Maimonides’ laws regarding the appointing of the king and the various civilian leadership

Katz summarizes (92):

Nowhere did the electorate at large vote directly for candidates of its choice. Rather, appointments were decided upon by a limited group of from five to seven *mevorerim* (selectors), who decided upon the suitable candidate by majority vote. These *mevorerim* were selected in turn, either by a yet larger group of selectors or by the drawing of names at random from among all those with the right to stand for election.

Nevertheless, Katz does conclude that “the system performed the necessary social function of giving the members of the community the feeling that it was they who determined who would lead them” (ibid., 93).

46. See “*Tovei ha-Ir*,” 86-87, as well as the similar sources cited by R. Rabinovitch himself, *Mesillot bi-Levavam*, 315 n. 57.

47. Katz similarly notes that Jewish law “derived its rules governing communal life from the laws of partnership, as if the community were nothing but a group of individuals associated for some specified and limited purpose.” See *Tradition and Crisis*, 80, and the sources cited there in notes 15-17.

48. Rabinovitch, *Mesillot bi-Levavam*, 325.

49. Ibid., 323.

50. Ibid., 338.

positions prohibit the election of non-Jews, converts, women, and others.⁵¹ However, in his *Yad Peshutah* commentary, R. Rabinovitch finds ample room within Maimonides' ruling to allow for it, at least after the fact, as long as they have public support.⁵² While R. Rabinovitch does not mention the concept of "partnership" explicitly in this context, it is clear that he reads Maimonides as endorsing it on some level.

Anchoring the legitimacy of the government in a "partnership" of the citizens places certain limits on its power. First and foremost, since its authority is derived from that of its citizens, the state may not create laws in matters that are beyond their authority to begin with.⁵³ For example, R. Rabinovitch reiterates that no sovereign—despite enjoying the support of the majority—may involve themselves in legislation of religious matters, as this is beyond the power of the individual citizen in the first place. Similarly, any law that violates Halakhah is null and void, as is any law or government action that singles out and undermines the rights of a particular group of citizens. Finally, although it has the power to use force, its "partnership" base means that the government should avoid doing so whenever feasible.

R. Rabinovitch's conception of government authority and the halakhic requirements of "partnership" has direct ramifications for the proper system of government as well. He asserts that in the modern era, "only a democratic republic can suit our tradition as it has developed in communal life throughout the generations."⁵⁴ However, he maintains that Jewish tradition does not dictate any one particular structure for this democracy. For example, the citizens may choose to appoint one head of state or a larger council, a unicameral or bicameral legislator, a coalition or two-party system, and the like. According to R. Rabinovitch, the concept of "partnership" encourages the advancement of a decentralized system in which local governments and community-based councils are to be given more power over the issues pertaining to their locality or subsection of society.⁵⁵ Likewise, R. Rabinovitch states that a direct

51. See *Hilkhot Melakhim* 1:4-5.

52. Rabinovitch, *Yad Peshutah: Shofetim*, 374–76. As mentioned, R. Rabinovitch also supports the appointment of women to rabbinic positions, such as service on a *beit din*. However, he admits that Maimonides' codification does not allow for this and that the "halakhic solutions" would have to come from other sources. See Pachter, "The Last Rambamist."

53. Rabinovitch, *Mesillot bi-Levavam*, 314, 344.

54. Rabinovitch, "Am Zu Yazarti Li," 716. See also Sheleg, *Following the Multitude*, 69.

55. Rabinovitch, *Mesillot bi-Levavam*, 336–37. Likewise, in his halakhic rulings, R. Rabinovitch places a strong emphasis on the autonomy of local communities. For

relationship between the electorate and its representatives is a halakhic necessity. Only in this way can the standard presented by some medieval and early modern authorities that the *Tovei ha-Ir* be “appointed by the public” (*she-himḥum rabbim aleihem*) be met.⁵⁶ In further support of this idea, R. Rabinovitch cites a midrashic tradition that when appointing judges to serve under him, Moses required the people to select individuals known to them personally.⁵⁷ Indeed, R. Rabinovitch posits that “for many generations, the majority of Jewish communities conducted direct and personal elections” for their leaders.⁵⁸

Critique of the Israeli System of Government

While in his writings R. Rabinovitch unquestioningly endorses modern Israel’s democracy, his political theology does carry with it some pointed criticisms of the current system. Chief among these is that too often the State of Israel fails to maintain a proper separation between the civil and the spiritual. The government often goes beyond its limited mandate to oversee “societal matters, the interaction between citizens, security, and foreign relations alone.”⁵⁹ Instead, it involves itself in religious affairs and thus goes beyond the matters for which its citizens may grant it authority. One example noted by R. Rabinovitch is the legislation and enforcement of *kashrut* laws by government bodies. Even when the civil authorities adhere to halakhic standards, their decisions are illegitimate.⁶⁰ Only the accepted religious authorities, on a communal or national basis, have the right to rule in such matters. For this reason, R. Rabinovitch objected to laws such as Israel’s so-called Chametz Law, which forbids the public sale of leavened foods during Passover.⁶¹

example, see *Siah Nahum*, #30, #86, #87, #105, #106, #107, #109, and his article encouraging the use of local rabbinic courts in conversions, as opposed to one central body: “In Each and Every City” (Hebrew), *Makor Rishon*, April 25, 2014, retrieved at <https://musaf-shabbat.com/2014/04/25/רבינוביתן-אליעזר-נחום-ועיר-נחום>.

56. Rabinovitch, *Mesillot bi-Levavam*, 315. The various rabbinic sources for this concept are cited in n. 57.

57. *Ibid.*, 336, citing the Sifrei on Deut. 1:13.

58. *Ibid.*, 335. Again, compare Katz’s divergent description of the election of communal leaders in *Tradition and Crisis*, 92.

59. Rabinovitch, *Mesillot bi-Levavam*, 350.

60. *Ibid.*, 342–46.

61. Sheleg, *Following the Multitude*, 69–70. R. Rabinovitch’s objection is to the fact that this law is nationwide in its scope. In keeping with his emphasis on the concept of “partnership” and the importance of communal autonomy, he would allow for such an enactment in a religious area if it is agreed upon by local residents.

With regard to the nature of Shabbat in the public sphere, however, his view is somewhat more nuanced. He did support laws outlawing commerce on Shabbat, but emphasized that this is for social reasons and not halakhic ones.⁶² In addition, he maintained that such laws must take into account the needs of those who are not Shabbat-observant. He insisted that while “it is important for there to be legislation that allows *Am Yisrael* to keep [lit. guard] Shabbat . . . the rights of non-religious and non-Jewish citizens must be protected [lit. guarded] as well.”⁶³

The most far-reaching criticism to be found in R. Rabinovitch’s works of the manner in which religion and state are currently intertwined in Israel is in regard to personal status law. In his view, marriage is by definition a religious institution and therefore beyond the purview of the civil authority.⁶⁴ This runs counter to the situation in the State of Israel, where the government is directly involved, by way of the Chief Rabbinate, in such matters. The fact that Israeli marriage and divorce laws are based in Halakhah does not make this any more legitimate. These matters must be left in the hands of rabbinic authorities alone, free of government involvement. With this, however, R. Rabinovitch’s belief in the separation between religion and state leads him to argue that the State of Israel may choose to recognize “civil unions” and grant equal rights even to couples who are not recognized by Halakhah. Such arrangements, unlike marriage, are not religious in nature and are therefore within the legislature’s limited authority.

Just as he objected to the State’s involvement in marriage law, R. Rabinovitch also objected to the role it has granted the Chief Rabbinate in another matter of personal status—conversion.⁶⁵ Again, the very fact that the Israeli government is involved in a religious matter is itself illegitimate. Moreover, by placing one centralized authority in charge of conversion, Israeli law runs counter to the halakhic tradition. In R. Rabinovitch’s view, Jewish law has always granted individual rabbis the authority to oversee conversions in their communities. Not only is the very idea of a singular and all-powerful Chief Rabbinate foreign to Judaism, but even the Sanhedrin itself was not involved in conversions. Instead, it left the issue—as the current Rabbinate should—to the discretion of local religious courts. These objections led R. Rabinovitch

62. *Ibid.*

63. Horowitz, “The Existential Concern.”

64. Sheleg, *Following the Multitude*, 70–71.

65. Rabinovitch, *Mesillot bi-Levavam*, 279–84, and “In Each and Every City.”

to take a leading role in founding *Giyyur ka-Halakhah*, a network of independent *batei din* which challenges the Rabbinatē's monopoly.⁶⁶

Beyond the ideological concerns just mentioned, R. Rabinovitch contended that such an alternative is necessary because the Rabbinatē has not properly facilitated widespread conversion among immigrants from the former Soviet Union and their children in particular.⁶⁷ Failure to do so, he believed, will create a serious threat to the Jewish identity of the State in the coming decades through intermarriage and acute demographic shifts. R. Rabinovitch argued that enabling their conversion, along with the creation of proper educational and social frameworks, is a "religious, social, and national challenge" of the utmost importance.⁶⁸ Doing so is the only way to ensure that this fully integrated and growing segment of Israeli society becomes part of the Jewish People and likewise maintains a strong connection to Judaism.

The extent to which R. Rabinovitch broke with other leaders of his stature in regard to religion and state is clearest regarding the matters just discussed. Ensuring that the Chief Rabbinatē was given sole control of personal status law was considered a major achievement by both Religious Zionist and Ḥaredi leadership in the early years of the State.⁶⁹ In fact, several important Religious Zionist rabbis—including R. Isaac HaLevi Herzog, R. Moshe-Zvi Neria, and R. Shaul Yisraeli, among others—argued for even more sweeping religious legislation in order to make religious observance the norm, at least in the public sphere.⁷⁰ Such public calls for religious legislation have declined in recent years, in general due to practical concerns; forcing religious law upon citizens is seen as largely ineffective and risks anti-religious backlash.⁷¹

66. R. Rabinovitch's involvement in this project is also noted by Nadler, "Maimonides." Other well-known rabbis taking part in *Giyyur ka-Halakhah* include R. Shlomo Riskin, R. David Stav, R. Re'em Hakohen, and R. Moshe Zuriel.

67. Horowitz, "The Existential Concern." Regarding the halakhic aspects of converting minors, see Rabinovitch, *Siah Nahum*, #68, #69.

68. Rabinovitch, *Mesillot bi-Levavam*, 282.

69. Regarding the social and political factors that allowed for this legislation to be passed, including a partnership between the Ḥaredi and Religious Zionist parties (known as the United Religious Front) in the first Knesset, see Moshe Samet, *Chapters in the History of Orthodoxy* (Hebrew) (Jerusalem: Carmel, 2005), 343-53, 385-95.

70. Regarding the overall attempts of Religious Zionism to influence the character of the State and the support for religious legislation, see Kalman Neuman, "Religious Zionism and the State" (Hebrew), in Yedidia Z. Stern, et al., *When Judaism Meets the State* (Tel Aviv: Yediot Ahronot, 2015), 290-342.

71. *Ibid.*, 332-33. Neuman also notes R. Rabinovitch's general objection to religious legislation; see *ibid.*, 330-31.

Nevertheless, support for the Rabbinate's monopoly over marriage and conversion has remained the dominant view among Religious Zionist leaders. In fact, *Giyyur ka-Halakhah* has received some of its harshest criticisms from within the Religious Zionist camp. A number of leading rabbis—in particular those identified with the movement's right-wing, such as R. Haim Drukman, R. Dov Lior, and R. Zvi Tau—have publicly rejected *Giyyur ka-Halakhah* and reiterated their belief that only the Chief Rabbinate has authority in matters of personal status.⁷²

It is true that in recent years the usefulness of the Rabbinate has been increasingly called into question. However, as with the diminished call for religious legislation, this too is often for practical reasons—the control of the Rabbinate by Haredi interests, its general unpopularity, and the growing number of Israelis who choose to bypass the institution altogether. Unlike others who are wary of the Chief Rabbinate, R. Rabinovitch argued for a separation of religion and state on principle. In this regard, the views expressed in his writings are closer to those of figures connected to academic and liberal Orthodox groups, such as *Ne'emanai Torah va-Avodah* and the short-lived *Ha-Tenu'ah le-Yahadut shel Torah*,⁷³ than they are to other *roshei yeshivah* of his stature.

In a similar sense, R. Rabinovitch differed from the majority of his rabbinic peers in his consistent refusal to endorse political parties identified with the Religious Zionist movement. Unlike them, he did not call upon the religious public to vote for parties such as the National Religious Party (*Mafdal*) or its current iteration, the Jewish Home Party (*Ha-Bayit Ha-Yehudi*). In fact, he opposed the very establishment of these sectoral parties.⁷⁴ This is no doubt connected, at least in part, to his disapproval of the mixture of religion and state for which they tend to advocate.

At the same time, it is important to note that R. Rabinovitch's political theology does not argue for a separation of religion and state in the traditional sense, whereby the state may not endorse religions nor fund religious services.⁷⁵ Rather, it calls for a clear separation between their respective areas of authority. While the state may not legislate or adjudicate religious matters, it should help provide for the social and

72. Aryeh Yoeli, "Religious Zionist Rabbis: Private Conversions Contradict the Torah," *Serugim*, August 11, 2015, retrieved at <https://tinyurl.com/y54vbux4>.

73. For more on these groups, which are still largely on the periphery of Religious Zionism, see Neuman, "Religious Zionism," 295-97, 393-94.

74. Pachter, "The Last Rambamist."

75. Also noted by Neuman, "Religious Zionism," 331 n. 137.

cultural needs of its citizens—including those who are religious. Going back to the concept of “partnership” as understood by R. Rabinovitch, the state may support religious institutions and fund religious services (for Jews and non-Jews alike) if there is widespread agreement for this among citizens.⁷⁶ However, if such a consensus were lacking, it would then be beyond the authority of the state.

Just as R. Rabinovitch’s political theology informs his objection to religious legislation and religious political parties, it is directly connected to his attitude towards “land for peace” and the removal of established settlements by the Israeli government. As noted above, R. Rabinovitch rejected the 2005 Disengagement Plan and called upon IDF soldiers to refuse to take part. Likewise, he spoke out strongly against the Oslo negotiations ten years previous. Yet, unlike many Religious Zionist leaders, especially those who see themselves as continuing the legacy of R. Abraham Isaac Kook and his son R. Zvi Yehuda, R. Rabinovitch’s objections to the Oslo Accords and the Disengagement were not due to a devotion to the Greater Land of Israel, nor messianic beliefs.⁷⁷ In fact, R. Rabinovitch’s brand of Religious Zionism is decidedly non-messianic.⁷⁸ The modern State of Israel is an unprecedented opportunity to:

realize the Torah’s great aims: the Ingathering of the Exiles, building the Land of Israel and causing it to bloom, and creating a just society that sanctifies the name of heaven in the eyes of all the nations.⁷⁹

In his works, R. Rabinovitch is wary of the notion that the State of Israel represents the “*Athalta de-Geulah*” (beginning of the redemption). This idea, heavily influenced by the teachings of R. Kook, is almost a given among Religious Zionists in Israel.⁸⁰ In stark contrast, R. Rabinovitch stresses that only a prophet could make such a declaration and rejects the idea that “we are in the midst of some guaranteed redemption that cannot fail” as an “illusion” indicative of dangerous hubris.⁸¹

76. Rabinovitch, *Mesillot bi-Levavam*, 343.

77. This is not meant to imply that in R. Rabinovitch’s view settling the Land of Israel is not a *mizvah*. Indeed, it is; see his *Responso Melummedei Milhamah* (Maaleh Adumim: Maaliyot, 2004), #2, 9-22. However, as will be explained, his objections to the Oslo Accords and the Disengagement were not based on this assumption.

78. This is also noted by Nadler, “Maimonides”.

79. Rabinovitch, *Mesillot bi-Levavam*, 268.

80. Regarding this dominant belief that State of Israel is a crucial part of the messianic process, see Neuman, “Religious Zionism,” 308-12, 362-71.

81. Rabinovitch, *Mesillot bi-Levavam*, 258. See also Avinadav Vitkon, “Politics at Sage-Level: An Interview with R. Nachum Eliezer Rabinovitch” (Hebrew), *Arutz Sheva*,

Consequently, and unlike many of his rabbinic peers, R. Rabinovitch did not reject the very idea of an agreement with the Palestinians or land-swaps. Rather, he protested the Oslo Accords on the grounds of *pikuaḥ nefesh*.⁸² Jewish law does not allow, he argued, the jeopardizing of lives in the present in order to protect other lives in the future. Due to the repeated terror attacks that came in the wake of Oslo, R. Rabinovitch deemed the peace process and the Israeli concessions that it garnered a clear and present danger to Israeli citizens. Thus, even if the Oslo Accords could eventually bring peace—something R. Rabinovitch believed to be a fantasy in any event—they were beyond the pale.

In a similar sense, R. Rabinovitch's objection to the Disengagement set him apart from the other rabbinic leaders whom he joined in protest. Similar to his argument that the state has no authority in religious matters because the "partners" who make up the state have no right to grant it such authority, R. Rabinovitch maintained that a government does not have the authority to remove law-abiding citizens from their homes. This is because no "partner" has such authority in the first place. In fact, R. Rabinovitch saw the concept of "eminent domain" as foreign to Jewish law.⁸³ He therefore rejected the Disengagement as a violation of the property rights of those living in Gush Katif.⁸⁴

As noted above, this particular limit on government power is possible only because in R. Rabinovitch's view the government of Israel is seen, like the *Tovei ha-Ir* before it, as inheriting the powers of a king and not a *beit din*. At the same time, this reasoning also explains why, unlike other prominent rabbis who called upon soldiers to disobey orders, he viewed the relinquishing of land as permissible in principle.⁸⁵ Protecting the State of Israel and its residents would indeed justify the government's "theft" of private land. However, since in R. Rabinovitch's opinion this case could not be strongly made regarding the Disengagement, the violation of citizens' rights remained unlawful.

Feb. 25, 2015, retrieved at <https://www.inn.co.il/News/News.aspx/293632>.

82. See Nachum Eliezer Rabinovitch, "A Clarification of the Halakhic Decision Outlawing the Removal of IDF Bases in Judea, Samaria, and Gaza" (Hebrew), in Eliezer Melamed, *Peninei Halakhah: The Nation and the Land* (Har Bracha: Machon Har Bracha, 2005), 302–8, available online at <http://ph.yhb.org.il/06-11-14>. The importance of *pikuaḥ nefesh* in R. Rabinovitch's halakhic rulings is also noted by Nadler, "Maimonides."

83. Rabinovitch, *Mesillot bi-Levavam*, 326 n. 96.

84. Pachter, "The Last Rambamist."

85. *Ibid.* and Rabinovitch, *Mesillot bi-Levavam*, 351.

Lastly, throughout his political writings R. Rabinovitch contends that the demand of Jewish tradition for a direct connection between the voters and their representatives is not met in the Israeli parliamentary system. In Israel, each party compiles a list of candidates and receives a number of seats in Knesset relative to the percentage of the votes it receives. The largest party, in turn, is given a mandate to form a coalition government. Thus, the members of parliament are not chosen directly by the voters. According to R. Rabinovitch, in order to rectify this situation the current system must be restructured so that “at least a portion of the members of parliament are elected personally; that is to say, in each district the residents should directly elect the people who will represent them.”⁸⁶ In his view, ignoring centuries of Jewish political tradition has led to a system in which politicians ignore the needs of large segments of the population.⁸⁷ Instead, it grants undue power to cronies and rewards those who pander to the particular interests of those within their party’s electoral body.

Despite these failings, however, R. Rabinovitch’s political theology wholly endorses the Knesset as the legitimate civil authority in Israel. Indeed, he notes, even kings who seized power illegitimately were still granted begrudging legitimacy in rabbinic texts.⁸⁸ Certainly Israel’s democracy, with all its drawbacks, is far better.

Political Theology in its Halakhic Context

As we discussed, R. Rabinovitch’s approach to Jewish law centers upon three themes: a division between the ideal and the real, an empirical view of the *mizvot*, and the importance of free choice. His political theology can be viewed, to a large extent, as an outgrowth of this same ideology. Because R. Rabinovitch views the civil authority as fulfilling a major objective of Jewish law, the “welfare of the body,” the underlying themes of Halakhah should apply to it as well. Indeed, reading his political theology in light of his view of Jewish law bears this out. All three of the aforementioned themes regarding the *mizvot* find expression in R. Rabinovitch’s view of the ideal Jewish State.

First, R. Rabinovitch sees the Torah as presenting a two-tiered system that establishes exalted moral and spiritual goals, even though

86. *Ibid.*, 350.

87. Rabinovitch, “*Am Zu Yazarti Li*,” 74.

88. Rabinovitch, *Mesillot bi-Levavam*, 321–22, 349–50.

they may be beyond the reach of any given generation. Practical Halakhah then serves as a tool to educate and lead the Jewish People to these goals. Accordingly, Jewish law is seen as establishing important guiding principles, but often leaving a large measure of practical leeway in conjunction with historical and social circumstance. As R. Rabinovitch would have it, this flexibility in praxis is what ensures that the overarching values of Judaism survive throughout the tumults of Jewish history.

This concept is reflected in his political theology as well. All Jewish governments are beholden to certain basic principles, such as the limiting of their authority to the civil realm, the concept of “partnership,” and direct representation. However, any form of government that upholds these principles is acceptable in the eyes of the Halakhah. In other words, Jewish law establishes these values as ideals, thus entrenching them in Jewish culture and tradition, while allowing the leadership to take the form most fitting for the realities of any given period. In R. Rabinovitch’s view, the biblical kingdom was akin to a constitutional monarchy and the medieval *Tovei ha-Ir* represented a democratically elected executive council.⁸⁹ Indeed, R. Rabinovitch posits that this flexibility is what allowed fundamental democratic values to remain embedded in the Jewish nation despite its prolonged exile. He believes that the fact that democracy has flourished in the modern State of Israel while it has floundered in many other countries founded in the wake of the Second World War is a direct result of this.⁹⁰

Second, a strong connection can be seen between R. Rabinovitch’s empirical view of the *mizvot* and his position on the manner in which the state must legislate. As explained earlier, R. Rabinovitch gives prominence to Maimonides’ observation that all *mizvot* must have a “useful end” that is clear and discernible. R. Rabinovitch sees the Halakhah as demanding that all civil legislation meet this same standard. This is not merely a matter of good public policy. Again, since the government is entrusted with the task of ensuring the “welfare of the body,” itself a category of *mizvot*, its laws must meet the standards established for the *mizvot*. Therefore, according to R. Rabinovitch, a necessary condition for the legitimacy of any civil legislation is that it must have “a clear and just purpose” that is “obvious to all.”⁹¹ R. Rabinovitch supports this statement by quoting Maimonides’ ruling:

89. Rabinovitch, “*Am Zu Yazarti Li*,” 684 n. 30.

90. *Ibid.*, 717.

91. Rabinovitch, *Mesillot bi-Levavam*, 312.

This is the general rule: Any law that the king enacts for all and not just for a particular individual is not robbery (*gezel*). However, anything he should take from one individual alone, not in accordance to the laws known to all but by violence (*hamas*), is indeed theft.⁹²

According to R. Rabinovitch, this means that any and all laws the government passes must apply to all citizens equally, and the justice of these laws must be self-evident.⁹³

Third, R. Rabinovitch's understanding of Jewish law places a heavy emphasis on free choice, which is taken to be a crucial prerequisite for the proper fulfillment of any *mizvah*. Here again, as civil leadership falls under halakhic categories, the same applies to its legislation. Just as Jewish law has developed into a system that minimizes the use of coercion, R. Rabinovitch argues that civil authorities must do the same. While it is necessary that the state have the power of force in order to maintain law and order, he repeatedly emphasizes that the government must do all it can to refrain from taking advantage of this right.⁹⁴ As noted, one of the advantages that R. Rabinovitch sees in a system based on so-called "partnerships" is that it encourages a close relationship between the citizens and their representatives. This guarantees that the laws they pass have broad public support and thereby reduces the need for coercion. Moreover, a government that loses the support of the people loses its legitimacy and must be replaced.

The Influence of Liberalism

While R. Rabinovitch states that he sees himself developing and building upon the approach taken by Maimonides, it is clear that he is also heavily influenced by the liberal tradition.

Despite the differences among the various thinkers who subscribe to this worldview, its most basic tenets generally remain the same. Liberalism is primarily concerned with the autonomy of individuals and the need to safeguard their basic rights. These rights are universal and include freedom of thought, freedom of expression, and freedom of religion. In the context of practical politics, liberalism sees the protection of these freedoms as the paramount task of any government. Not only must these rights be protected from violation by other citizens,

92. *Mishneh Torah, Hilkhoh Gezeleh ve-Avedah* 5:14.

93. Rabinovitch, *Mesillot bi-Levavam*, 307.

94. *Ibid.*, 319, 350, 351.

but they must be protected from violation by the government as well. As a result, a wide-ranging system of checks-and-balances is required, and no government is legitimate if its power is not derived from the consent of the governed.

Even this terse overview makes clear the strong parallels between liberalism and R. Rabinovitch's thought.⁹⁵ Foremost among these is the heavy importance placed on individual rights. As discussed, R. Rabinovitch sees Jewish law and tradition as very much concerned with individual autonomy. Likewise, he attributes great religious importance to personal freedoms.⁹⁶ This is evident in his argument that observance of the *mizvot* has true meaning only when done without coercion and as an expression of free choice. It would also seem, for example, that his belief in personal and communal autonomy informs his support for Jewish rights on the Temple Mount and opinion that religious communities may appoint female leaders if they so choose.

Further, the limited role that R. Rabinovitch grants the state is akin to that which it is granted in liberalism: protecting the life and liberty of its citizens. As a result, he considers government involvement in matters of personal conscience and religious practice illegitimate. This is clearest is his objection to the Rabbinat's role in personal status law. Of course, Halakhah itself does place limits on personal freedoms, commanding certain actions and proscribing others. However, in keeping with the tenets of liberalism, R. Rabinovitch believes a Jewish government is forbidden from doing so. This is the reason for his overall objection to both civil laws that would force religious norms upon citizens and the use of coercion by rabbinic authorities within religious communities.

Finally, an obvious parallel can be seen in R. Rabinovitch's view that Jewish law identifies the source of government authority as the consent of the governed. This too is a crucial aspect of liberal political thought.

Indeed, R. Rabinovitch is well aware of such parallels. In "*Am Zu Yazarti Li*," he posits that many of the fundamental values of democracy—such as liberty, equality, and the aforementioned individual autonomy—are inspired by the Hebrew Bible and Jewish tradition.⁹⁷ In addition, he writes:

95. Some of these parallels are also mentioned by Nadler, "Maimonides," and Sheleg, *Following the Multitude*, 68.

96. This is also noted by Ravitzky, "Halakhic State?," 155.

97. Rabinovitch, "*Am Zu Yazarti Li*," 681–86.

John Locke, who laid the foundations of modern democratic thought, drew ideas from the Bible and quotes it frequently. I do not know if he was familiar with Maimonides' "Laws of Kings,"⁹⁸ but it is interesting to note that he writes in almost the same manner and determines that the purpose for which a government is formed is twofold: establishing a just social order and defending against external enemies who endeavor to expel us from our home.⁹⁹ He also concludes [as Maimonides does] that a government that makes war against its own people or a sovereign who repudiates the laws of the divine and natural morality loses all legitimacy.¹⁰⁰

The influence of biblical and rabbinic models on liberalism is a matter of scholarly debate and need not be rejected out of hand even if one is unconvinced of the weight R. Rabinovitch assigns to it.¹⁰¹ However, in the case of R. Rabinovitch, this influence is not one-way. Indeed, it is not happenstance that he cites John Locke. The influence of the liberal political tradition on R. Rabinovitch's political theology is clearest upon comparing it to the writing of the English philosopher.

John Locke

John Locke (1632-1704) is considered by many to be the founding father of liberalism, and his writings continue to influence democratic theory to this day. His most important works in this context are *Two Treatises of Government* and *A Letter Concerning Toleration*.¹⁰² In the first, he lays out his understanding of social contract theory, the nature of individual

98. R. Rabinovitch notes here that a Latin translation of the relevant sections of the *Mishneh Torah* was published nearly forty years before Locke's *Two Treatises* (ibid., n. 31).

99. R. Rabinovitch presents a similar description of the role of the king in *Yad Peshutah: Shofetim*, 345-46.

100. Rabinovitch, "Am Zu Yazarti Li," 684. Elsewhere, R. Rabinovitch also quotes directly from Locke; see Rabinovitch, *Mesillot bi-Levavam*, 378.

101. For example, see Eric Nelson, *The Hebrew Republic: Jewish Sources and the Transformation of European Political Thought* (Cambridge: Harvard University Press, 2011). Nelson argues that biblical texts and rabbinic commentaries on them had a pervasive influence upon the development of modern political theory in the mid-seventeenth century. He credits these texts with giving rise to the belief that a republic is the only legitimate form of government. Regarding the use of a Maimonidean text in particular, see ibid., 108-109. Regarding the influence of biblical texts on Locke's views on tolerance, see ibid., 135-37.

102. Citations and quotations from these works are taken from John Locke, *Two Treatises of Government and A Letter Concerning Toleration*, ed. Ian Shapiro (New Haven: Yale University Press, 2003).

rights, and the role of government. In the second, he addresses the relationship between religion and the civil government and their respective spheres of influence.

After forcefully rejecting in the *First Treatise of Government* the notion that kings are granted their authority by divine right, Locke goes on to discuss in the *Second Treatise of Government* the origin and ends of civil government. He opens by presenting his view on the “state of Nature,” which precedes communal life and out of which communities and nations are formed. In the “state of Nature,” each individual is equally free, bound only by the “law of Nature,” which protects the safety of their person and property and prohibits them from harming others.¹⁰³ Likewise, each individual has the right to enforce the “law of Nature” in order to defend himself. However, this will no doubt lead to “confusion and disorder,” violence and chaos.¹⁰⁴ Thus, the people may enter into a contract with one another to appoint a civil government to oversee and enforce the “law of Nature.” In doing so—and only by doing so—they form “one community and make one body politic.”¹⁰⁵

As a result of this, the power that can be granted to the community, and in turn the government, is limited to that which the individuals originally had in the “state of Nature.” As Locke puts it, “nobody can give more power than he has himself.”¹⁰⁶ On the other hand, Locke maintains that by consenting to be part of “one body politic and under one government,” the individual consents to abide by that which has received the approval of the majority.¹⁰⁷ Nevertheless, the legislator remains only a “fiduciary power to act for certain ends” and the “supreme power” remains ultimately with the people.¹⁰⁸ Were the legislator to act against these proper ends, “the trust” placed in it “must necessarily be forfeited, and the power devolve into the hands of those that gave it.” Moreover, the laws of the legislator must apply to all citizens equally, and there must be a clear division between legislative and executive powers in order to ensure that these powers are not abused.¹⁰⁹

In *A Letter Concerning Toleration*, Locke makes the case for religious tolerance. To do so, he first sets out to “distinguish exactly the business

103. Locke, *Second Treatise* 2:6 (102).

104. *Ibid.*, 2:13 (105).

105. *Ibid.*, 2:14 (106).

106. *Ibid.*, 4:23 (110).

107. *Ibid.*, 8:97 (142).

108. *Ibid.*, 13:149 (166).

109. See *ibid.*, 12:143, 12:144, 13:150, 14:159.

of civil government from that of religion” and “settle the just bounds that lie between the one and the other.”¹¹⁰ The task of religion is not:

. . . erecting an external pomp, nor to the obtaining of ecclesiastical dominion, nor to the exercising of compulsive force; but to the regulating of men’s lives, according to the rules of virtue and piety.

In contrast, the task of the state is the preservation and advancement of the so-called “civil interests,” which Locke defines as “life, liberty, health, and indolency of body; and the possession of outward things, such as money, lands, houses, furniture, and the like.” As religion and state play two wholly different roles, argues Locke, one does not have the right to interfere with the other. Additionally, the state may not involve itself with religion because, continuing his point from the *Second Treatise*, the “care of souls” is not committed to any one person.¹¹¹ Therefore, such power may not “be vested in the magistrate by the consent of the people.”

Moreover, Locke maintains “the care of souls cannot belong to the civil magistrate, because his power consists only in outward force,” whereas God demands the “inward persuasion of the mind.” Indeed, the use of external force belongs to the state alone, and the church may not resort to it. This is because the church is by definition a “voluntary society of men” joining together for the “public worshipping of God” and the “salvation of their souls.”¹¹² While it may choose to expel those who violate its teachings, it has no power to dispossess them of the rights ensured by the civil authority. In short, the state may not force a particular religion and its practices upon citizens, and religion may not make use of force to bring citizens into the fold. Although in the context of seventeenth century England religious tolerance meant “the mutual toleration of Christians in their different professions of religion,”¹¹³ Locke’s arguments have long since been used in support of tolerance for all.

The connection between R. Rabinovitch’s political theology and the political philosophy of John Locke is almost self-evident. R. Rabinovitch’s understanding of the source and nature of government authority is identical to that of Locke in the *Second Treatise*. Both view it as ultimately stemming from the people and thus limited to those powers that the people have the ability to grant. As a result, R. Rabinovitch’s

110. Locke, *Toleration*, 218.

111. *Ibid.*, 218-19.

112. *Ibid.*, 220.

113. *Ibid.*, 215.

conception of the halakhic “partnership” is akin to Locke’s conception of the “body politic.” In fact, R. Rabinovitch’s statement that a right that no individual citizen has “can therefore not be granted by them to their representatives” can be found almost verbatim in the *Second Treatise and Toleration*.¹¹⁴ Similarly, R. Rabinovitch’s aversion to the use of force by religious authorities matches Locke’s understanding that religious matters are solely subject to “inward persuasion,” unlike civil matters, which may require external coercion. Finally, both posit that a government that violates the limits of its power loses its legitimacy. The revolutionary tension present in Locke’s political theory, which helped inspire the American and French revolutions, is present in R. Rabinovitch’s political theology as well. Indeed, it helps explain his willingness to forcefully criticize the Israeli government and openly question the legitimacy of some of its actions.

While it could be argued that such parallels do not necessarily belie direct influence, this is harder to maintain when comparing the separation of authority between religion and state as understood by Locke and R. Rabinovitch.

As discussed, R. Rabinovitch draws a parallel between Maimonides’ concepts of “welfare of the body” and “welfare of the soul” and his own distinction between the “civil” and the “spiritual.” The state is entrusted with laws governing the “welfare of the body,” i.e., the civil. Religion is entrusted with the laws governing the “welfare of the soul,” i.e., the spiritual. As mentioned above, Maimonides defines the “welfare of the body” as “the improvement of [the common multitude’s] ways of living one with another” (*Guide* III:27:510). This is achieved, he says, through ensuring “the abolition of their wronging each other” and the “acquisition by every human individual of moral qualities that are useful for life in society so that the affairs of the city may be ordered.” This definition largely matches the limited role that R. Rabinovitch lays out for the state. In fact, Maimonides himself states that the “welfare of the body” is to be achieved “through a ruler who gauges the actions of the individual” (*Guide* II:40:382).

Nevertheless, the parallel between the “welfare of the body” and the “civil” is not perfect. Numerous *mizvot* that clearly fall under the category of the “spiritual,” and thus beyond the purview of the state according

114. Rabinovitch, *Mesillot bi-Levavam*, 344. Compare: Locke, *Second Treatise* 4:23 (110) and *Toleration*, 218-19.

to R. Rabinovitch, are nevertheless classified by Maimonides as *mizvot* that pertain to the “welfare of the body.” One example should suffice to demonstrate this. It was noted above that R. Rabinovitch points to the laws of *kashrut* as a religious matter in which, as such, the government cannot legitimately involve itself. Yet, in regard to these same laws, Maimonides writes that “the purpose of all this is... to put an end to the lusts and licentiousness manifested in seeking what is most pleasurable and to taking the desire for food and drink as an end” (*Guide* III:35:537). Since it is meant to reinforce certain “moral qualities,” this definition places *kashrut* firmly within the category of *mizvot* that are concerned with the “welfare of the body” according to Maimonides’ classification. Were a complete identification of the civil authority’s role with the “welfare of the body” accurate, *kashrut* would actually fall under the jurisdiction of the state. As R. Rabinovitch rejects this notion, it is clear that his distinction between the civil and the spiritual cannot be seen as a precise parallel to Maimonides’ “welfare of the body” and “welfare of the soul.” The tension between Maimonides’ concepts and R. Rabinovitch’s use of the terms is especially important, as the division between the civil and the spiritual is the lynchpin of R. Rabinovitch’s political theology.

While R. Rabinovitch’s view of the civil and the spiritual does not completely match Maimonides’ division, it does match Locke’s distinction between the state’s role in preserving the “civil interests” and religion’s task in assuring the “care of the soul.” R. Rabinovitch sees the state’s sole concern as being the life, liberty, and property rights of the citizens, just as Locke did. On the other hand, the state must stay out of the “the religious and the ritual,” in R. Rabinovitch’s phrasing. Here too he embraces Locke, who places “virtue and piety” and the “public worshipping of God” outside of the government’s jurisdiction. Not only does R. Rabinovitch wholeheartedly accept Locke’s definitions of the civil and religious, but he likewise endorses Locke’s separation of the two.

Although R. Rabinovitch utilizes the language of Maimonides—“welfare of the body” and “welfare of the soul”—a close reading reveals that his approach to these matters is ultimately indebted to Locke. There still is, however, a crucial difference between them. While Locke separates the civil and religious largely in order to protect the modern state from the intrusion of religion, R. Rabinovitch does so in order to protect the integrity of religion and defend it from the incursion of the state.

Conclusion

This essay presented and analyzed the political theology of Rabbi Dr. Nachum Eliezer Rabinovitch. R. Rabinovitch saw the state as fulfilling a halakhic role in ensuring the “welfare of the body,” and his views on the proper structure and function of the state are therefore closely related to his understanding of nature of the *mizvot*. In addition, R. Rabinovitch’s political theory carries with it some criticisms, both principled and practical, of the contemporary Israeli system. A close reading of R. Rabinovitch’s arguments shows that he was deeply influenced not only by Jewish tradition, but by the core ideas of liberalism as well. His emphasis on individual rights and views on the source and limits of government authority speak volumes in this regard. Moreover, by identifying the “welfare of the body” with the state’s role and “welfare of the soul” with religion, R. Rabinovitch’s approach gives Lockean meaning to the Maimonidean concepts.

While the most important aspects of R. Rabinovitch’s political thought have been addressed, there still remain areas for further study. For example, much can be gained by comparing his writing to that of other Orthodox thinkers who likewise maintain a strong connection to liberal thought, such as Moses Mendelssohn, R. Shimon Federbush, and Yeshayahu Leibowitz. In addition, although R. Rabinovitch’s empirical view of the *mizvot* is ostensibly based on Maimonides, a close reading alongside Locke’s *An Essay Concerning Human Understanding* would no doubt be fruitful. Finally, our analysis touched upon R. Rabinovitch’s halakhic works when relevant to his political thought; a dedicated study of his halakhic philosophy and methodology still awaits.

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