The construction of the medieval in modernity both implies and sheds light on the construction of the ancient in the Middle Ages; together, these actions shed further light on the nature of the shifting subject position from which such seemingly objective historical epochs are constructed. Of course, the notion that many things—identities, genders, and epochs among them—are “constructed” is a postmodern truism, but what does this construction entail?

The concept of “construction” often is simplistically understood as the opposite of and corrective for the positivist notion that things just naturally “are.” Yet what exactly makes a constructed object “objective” or “natural” is no trivial matter. Attributing the process of construction to an agent, say to “society,” as in the clichéd term “a social construct,” makes “society” the agent in this process, which is no less naturalistic than the “naturalistic” position it purports to oppose.

Although construction implies an agent, construction is not a matter of pure fabulation, of making things up from scratch. Rather, it implies extracting objects from their “natural” positions and assembling them into a new unity. Construction is in effect the inverse of the Romantic conception of expression, in which the subject, typified by the artist, openly puts his or her thoughts and emotions on display and even stresses them, in part at the expense of objectivity or “realism” in the representation of objects. By contrast to both naturalism and expressionism the construction of “objective” phenomena is attained by the withdrawal of the subject from the representation, as if, even though constructed, the representation is still objective. The act of construction thus always implies a certain kind of subject position—the withdrawal of the subject from the resulting representation of the
object. And how that object is constructed in turn illuminates the nature of the subject position involved.

The ordinary logic of the representation of “objective” entities suggests that what is represented precedes the representation in time. Contrary to that logic, the constructed object does not precede its representation, but rather emerges concurrently with the withdrawal of those subjects whose construct it is. This makes the withdrawal itself a purely structural matter, an essential part of the logic of construction, rather than a specific event in terms of time or chronology.

The construction of antiquity and the Middle Ages in the history of the Talmud and its interpretation is no exception to this process. This essay traces how modern interpreters construct Maimonides by reenacting, in a new way, how Maimonides constructs the “ancient” Talmud as a merely rhetorical form of thinking, as opposed to a rational, philosophical mode of thought, and redeems the content of the Talmud in a new, more philosophical-rationalist form, that of a legal code. It then shows how, in the works of Maimonides’ modern interpreters, Maimonides becomes a figure of transition from the “medieval” subject position to the “modern” subject position of post-Kantian transcendental philosopher.

What is involved in the construction of antiquity and the Middle Ages in the history of the Talmud and its interpretation is thus a double withdrawal in which, first, the supposedly “ancient” nature of the Talmud is constructed from a subject position, typified by Maimonides and his contemporaries, in which philosophical and talmudic modes of thinking are positioned as opposing each other. In regarding philosophy and rhetoric as opposed to each other, Maimonides was in agreement with other medieval Talmudists, the Tosafists, although they privileged the practices of rhetoric in what was seen as ancient, whereas Maimonides privileged philosophy. In thus privileging philosophy and dismissing the Talmud’s form as merely rhetorical, Maimonides critically withdrew from the supposedly rhetorical form of the Talmud to a purely philosophical subject position from which he translated the Talmud into a philosophically rational code of law.

Then, in a second act of construction and critique, modern commentators have redeemed Maimonides from this now supposedly

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