This essay inquires whether the halakhic tradition can provide foundations for a characteristically Jewish ethics that can contribute to moral discourse in our increasingly pluralistic world. In what follows I will explain why I do not think such a Jewish ethics is possible. I come to this conclusion not because I think Judaism lacks moral insight or is deficient in resources for moral reflection, but because of the distinctive place the idea of a universalist or rational ethics came to have in the Jewish tradition as it developed beyond the moral pathos of prophetic religion that contributed so much to the moral development of the West.

Before I continue to elaborate on my position I want to turn our attention to the fact there is no general agreement in our culture concerning the definition or the precise meaning the term "ethics," a term which is so central to our discussion. To facilitate discussion, I would like first to rule out two common usages of this term that are quite unhelpful in this quest because the one leads, almost trivially, to the conclusion that Judaism may well be unethical; whereas the other suggests, just as trivially, that Judaism is clearly ethical. Jewish intellectuals have frequently been called upon to defend their heritage against charges that it is legalistic, blind to noble heroic ideals, or disloyal and unpatriotic. An exhaustive list would encompass the long and convoluted history of anti-Jewish sentiment. Yet, even though such charges can be socially and politically potent and may require apologetic and polemical ingenuity in response, a more disinterested student of religion or ethics may find the debate rather unenlightening. This happens because the term "ethics" is used in such cases to designate the dominant standards of behavior in the general culture within which Jews find themselves at any given time and to which they find themselves answerable. It is quite conceivable that such standards might even be antithetical to Jewish sensibilities. When "ethics" is defined in such culturally and historically relative terms, the ensuing discussion reveals more about the sociological status of Jews as a cognitive and normative minority than about the very nature of Judaism. Alternatively, by simple logical inversion, we may adopt an inward looking pose and use the term "ethics" to refer to...
the wealth of instructions, anecdotes, heroic examples, and ["oracular"] pro-
nouncements that express and exemplify Jewish thinking about the ways
good or responsible people ought to behave and what sort of life they
ought to live. In this case we should easily see not only that there is such a
thing as Jewish ethics, but that it is extremely rich and diverse. Limited to
such terms, we would be hard pressed to understand why characterization
of Judaism as an "ethical monotheism" might be meaningful or why it
might be controversial.

Reflecting on the richness of instruction in Jewish sources concerning
what people should do and how they ought to behave, Leon Roth lamented
that "Jewish Ethics, or more properly an Ethic of Judaism, does not exist."1
Explaining his criticism, Roth made the important theoretical claim that
"Ethics is the theory of morals—it is the reflective inquiry into the nature
of morals."2 On the basis of this claim he concluded that "the mussar
literature, both medieval and modern, is inadequate. It does not contain a coher-
ent set of ideas knit together by thought-out principles."3 Contrary to the
position I develop in this essay, Roth believed in the possibility of Jewish
Ethics and demanded of Jewish thinkers first a statement of "the moral
ideas of Judaism" and second "the bringing them together into one intelligen-
tal and coherent view."4 His hopes, I fear, must inevitably be confounded
by the nature of halakhic reasoning and the logical opacity of halakhic pro-
cedure.

Halakhic discourse may seem ideally suited for ethical analysis. This im-
pression is created by the argumentative style through which talmudic litera-
ture seeks reasons and justifications for the authoritative pronouncements
of its tannaitic sources.4 The impression may be strengthened by the ten-
dency of halakhists to resist the finality of legal codes and to embellish
writings in codificatory style with encyclopedic studies of their probable
sources.5 We must, however, carefully scrutinize halakhic justifications to de-
termine whether they reveal the thought process that led a rabbi to a cer-

2 Ibid. page 293a Note 4.
3 Ibid. 293b. David Novak shares Roth’s trust in the project of Jewish ethics and promotes it
overcome objections of the type I outline in this essay by means of a traditional Jewish distinction
between scriptural and rabbinic law. He admits that scriptural law resists the quest after ethical princi-
pies but claims that rabbinic law does not. Novak accounts for the difference in terms of origins.
Being divine and revealed, he maintains, scripture may elude ethical analysis, but rabbinic legislation
is a human activity in which we can participate. I cannot see how this theological distinction over-
comes my objections.
4 For illuminating analysis of this style see: David Kraemer, The Mind of the Talmud: an Intellectual
5 See, e.g., the manner in which standard editions drown Maimonides’ Mishne Torah and Karo’s
Shulchan Aruch in expansive “commentaries” that negate the very purpose of codification to achieve
authoritative clarity and simplicity (if not messianic finality). Yosef Karo actually played the game on
both sides, having first written an encyclopedic commentary on Maimonides’ code.