A Dilemma for *De Dicto* Halakhic Motivation: Why *Mitzvot* Don't Require Intention

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ABSTRACT: According to a prominent view in Jewish-Halakhic literature, "*mitzvot* (commandments) require intention." That is, to fulfill one's obligation in performing a commandment, one must intend to perform the act *because it's a mitzvah*; one must take the fact that one's act is a *mitzvah* as her reason for doing the action. I argue that thus understood, this Halakhic view faces a revised version of Thomas Hurka's recent dilemma for structurally similar views in ethics: either it makes it a necessary condition for the act's being a *mitzvah* that one has a false belief about the act's Halakhic status, or it commits proponents of the "*mitzvot* require intention" view to a sort of rational failure in performing the *mitzvot*. The dilemma arises, however, only if we interpret this Halakhic view as requiring one to have a *belief* about her act's Halakhic status in order for it to have this status. I suggest that the dilemma can be avoided by interpreting the intention requirement as requiring a *make-belief*, instead of a belief. Under this understanding, Halakha (or God) doesn't care about *why* one performs an act of a *mitzvah*, but rather about *how* she does it; how she sees and experiences her action. This suggests another form of worship central to Judaism—worship via make-believing.

> *"Everything must be done for Heaven's sake,*
> *even actions done for Heaven's sake"*
> *-Rabbi Menachem Mendel of Kotzk*

1. Introduction

The notion of *mitzvot* (commandments) is central to Judaism. In traditional Jewish thinking, *mitzvot* were issued by God and impose obligations on Jews. There are *mitzvot* to perform (and not perform) certain actions, to say (and not say) certain phrases, to eat (and not eat) certain foods, and so on. According to a prominent view in Halakhic literature, *mitzvot* require intention (*mitzvot tzerikhot kavanah*). That is, to fulfill one's obligation in performing a commandment, it is not sufficient to perform the act that the commandment requires, but one must do so with a certain kind of intention in mind. If one doesn't do so, one's act doesn't constitute a *mitzvah* at all.

A prominent strand in the *Acharonim* (rabbis living from roughly the 16th century to the present) seems to interpret this intention requirement as follows: one must intend to do the act *because it's a mitzvah*. That is, roughly, one must take the fact that the act is a *mitzvah* as one's

reason for doing the action.[1] Put differently, according to this understanding of the "*mitzvot* require intention" view, to fulfill a *mitzvah,* it's not sufficient that one's behaviour *conforms* with a divine command. Rather, one must *comply* with a divine command: one must do what the command requires, and one's reasons for performing the act must be that it fulfills the command.[2] On its face, this suggests that this view sees the *mitzvot* as things whose theological purpose is to be acts of worship and compliance. One must do these acts to obey God and fulfill one's duty to Him. They have no religious value otherwise.

In this paper, I argue that thus understood, the "*mitzvot* require intention" view faces a revised version of Thomas Hurka's (2019) dilemma for structurally similar views in ethics: either it makes it a necessary condition for the act's being a *mitzvah* that one has a false belief about the act's Halakhic status, or it commits proponents of the "*mitzvot* require intention" view to a sort of rational failure in performing the *mitzvot.* What constitutes the dilemma is that such a view commits one to have a *belief* about the Halakhic status of one's act (i.e., whether it's a *mitzvah* or not), while the act's being a *mitzvah* depends in a crucial way on one's believing that it has this status. This suggests a way out from the dilemma: the intention requirement must be interpreted in a way that doesn't commit one to have *a belief* about the Halakhic status of one's act. I argue that employing something like *make-believing* as Sam Lebens (2013; 2020, ch. 9) has recently suggested in the context of Orthodox-Judaism, can be such a way. Under this understanding, what Halakha cares about isn't *why* one performs the act of the *mitzvah*, but rather *how* she does it; how she sees and experiences her action. If such an interpretation is viable, this suggests another form of worship central to Judaism—worship via make-believing.

The paper is structured as follows. §2 outlines the Halakhic view according to which *mitzvot* require intention. §3 presents Hurka's dilemma, poses some objections to it, and argues for a better, revised version of the dilemma for this Halakhic view. §4 defends the dilemma by arguing that the revisions that Hurka suggests on behalf of the ethical view he discusses aren't available in the Halakhic case. §5 introduces Lebens's case for make-believing as an important notion in Orthodox-Judaism, and §6 argues that interpreting (some of) the Halakhic texts as requiring make-believing is a viable option, and that such a view avoids the dilemma.

2. *Mitzvot* Require Intention

The debate about the "*mitzvot* require intention" principle first appears in the Babylonian Talmud in Tractate *Rosh Hashana* (28a-29a).[3] It's not entirely clear what this intention requirement means in the Talmud, but one passage—which many later interpreters

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[1] Under this understanding, to call such a requirement an "*intention* requirement" is somewhat misleading; what's at issue here is the agent's *motivating reasons*, not her *intentions*. In Anscombe's (1963, 1) famous terminology, this means that the "intention requirement" should be understood as an "intention with which someone acts", and not merely as an "intentional action" nor as an "intention for the future". However, such an understanding of the intention requirement—as having to do with the agent's motives (and not strictly speaking with her intentions)—is prevalent within contemporary philosophers who have discussed the '*mitzvot* require intention' principle. See Benatar (2001, 99-102), Lewinsohn (2006, 129 n. 5; 2016, 245), and Goldschmidt (2015, 171).

[2] See Brown and Nagasawa (2005, 140) for such an account of compliance. See also Goldschmidt (2015, 170-1) for interpreting the '*mitzvot* require intention' principle along these lines.

[3] This debate has precedent in the Mishnah (e.g., *Berakhot* 2:1; *Rosh Hashanah* 3:4), but the term "*mitzvot* require intention" is from the Talmud.

emphasize—says that the relevant intention is an intention *to fulfill one's duty* (*kavanah latzet*). The Talmud implies, for instance, that if *mitzvot* require intention, then if one blew the *shofar* on *Rosh Hashana* merely to make music, one has not fulfilled a *mitzvah*; rather, one must blow the *shofar* in order to fulfill a *mitzvah*. The Talmud, though, doesn't provide a final verdict on whether *mitzvot* require intention or not.[4] Medieval writers continued to debate this question until Rabbi Yosef Karo (1488-1575), in his *Shulchan Aruch* (*Orach Chayim* 60:4)—the most authoritative code of Jewish Law—reached a final verdict. *Mitzvot,* he ruled, *do* require intention.

Furthermore, according to a prominent strand in the *Acharonim*, 'intention' refers to some occurrent and explicit mental state that one must be in before or during the performance of the act. Thus, the *Mishnah Berurah* by Rabbi Yisrael Meir Kagan (1838-1933), a commentary on the *Shulchan Aruch*, emphasizes that the relevant intention is a kind of mental state that one must be in before one does the *mitzvah*:

> One must intend before one begins doing the *mitzvah* to fulfill that *mitzvah*. […] And if one didn't intend to fulfill his duty in performing a *mitzvah*, one hasn't fulfilled his duty from the Torah [*mideoreita*], and one must redo the act.[5] (*Mishnah Berurah* 60:7-8)

Even more explicitly, the *Piskei Teshuvot* by Rabbi Simcha Rabinowitz, a contemporary commentary on the *Mishnah Berurah,* spells out this requirement as follows:

> Before one begins doing the *mitzvah*, one must have the thought that 'I hereby intend in my action to fulfill *mitzvah* x [*plonit*] as our God commands us,' and if one has not done so, one's act does not qualify as a *mitzvah* at all, even post facto [*bedieved*]. (*Piskei Teshuvot* 60:4)

Finally, the *Peninei Halakha* by Rabbi Eliezer Melamed, a contemporary Rabbi, says that regarding a person who is reading the Torah portion in which the *Shema* paragraph is written,

> [W]hen the time to recite *Shema* arrives, if he has *kavanah* [intention] in his heart to fulfill the *mitzvah* of reciting *Shema*, he has fulfilled his obligation. However, if he continues reading as he was, without having *kavanah* to fulfill the mitzvah of saying *Shema*, he has not fulfilled his obligation. […] [A]s with all the *mitzvot*, we must have in mind that in performing this act, we are fulfilling Hashem's [i.e., God's] commandment.[6,7] (*Peninei Halakha*, book *Tefilla,* ch. 15, 8)

On this understanding, the intention requirement requires an occurrent, explicit mental state that has the act's *mitzvah*-ness as its content. One must take the fact that the act is a *mitzvah* as her reason for acting, and one must be aware of the fact that this is her reason for acting.

Before turning to the dilemma, let me note something about the scope of the intention requirement. Many Rabbis hold that even if some *mitzvot* require intention, not all of them do. According to some, the intention requirement applies only to *mitzvot* from the Torah (*deoraita*)

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[4] For more discussion about this debate in the Talmud and the Mishnah, see Goldenberg (1975) and Strauch Schick (2017).

[5] All the translation of rabbinical sources in this paper are mine, unless indicated otherwise.

[6] The English translation for the *Peninei Halakha* is from Rabbi Melamed's official website at: https://ph.yhb.org.il/en/02-15-08/

[7] Ultimately, the *Peninei Halakha* ends up with a less demanding view, according to which in certain contexts, even an implicit intention suffices for the act's being a *mitzvah*. I say more about that in §6.

but not to *mitzvot* from Rabbinic sources (*derabbanan*). Furthermore, many accept that *mitzvot* between man and his fellow (as opposed to *mitzvot* between man and God) don't require intention. Thus, according to Rabbi Ovadia Yosef (1920-2013), "The *mitzvah* of charity does not require intention since it all depends on the enjoyment of the poor, and the poor do not care whether the giver intended to perform a *mitzvah* or not," and "In doing charity, the act itself is beneficial even without the thought of a *mitzvah*" (*Yabiya Omer*, part 6, *Yoreh De'ah*, 29). More generally, Rabbi Yosef says that "In all the *mitzvot* between man and his fellow […] we do not care about the intention of the doer at all" (*ibid*). In *mitzvot* between man and God, by contrast, "If one does not perform them for the sake of a *mitzvah*, there is nothing in it" (*ibid*). According to him, the reason for this is that:

> If one has taken a *lulav* or put on *tefillin* or *tzitzit*, unless the Creator, may He be blessed, has commanded us to do the *mitzvah*, there is no benefit in this act on its own. And only because one fulfills a *mitzvah* of the Creator, may He be blessed, who commanded us to do so, observance of the *mitzvah* makes the act glorious. Therefore, if one doesn't perform the act for the sake of the *mitzvah*, there is nothing in it. (*Ibid*)

What Rabbi Yosef seems to suggest is that *mitzvot* between man and God, and *ritual mitzvot* (such as *shofar, lulav, tefillin,* and *tzitzit*) in particular, are such that their whole purpose is that one will comply, obey, and worship God. Therefore, these *mitzvot* require one's mental involvement—specifically one's intention to comply, obey, and worship God while fulfilling His commandments; without such an intention, the act has no religious value.

With that in mind, let's now turn to the dilemma.

3. The Dilemma

There are views in moral philosophy that hold that for an act or a state of affairs to have some ethical property, one must believe that it has that property. For example, according to a view that is sometimes (mistakenly) attributed to Kant, an act is right or a fulfillment of one's duty, only if one does it because it's right, or from the motive of duty.[8] But to perform an act *because it's right*, one must *believe* that it's right. More generally, for one to φ for the specific reason that p, one must believe that p (Audi 1986; Velleman 1989, 199-200; Enoch 2011, 225; cf. Singh 2019, 420). So according to this view, a necessary condition for an act's being right is that it be accompanied by a belief in its rightness.

In a recent paper, drawing on W. D. Ross's (2002, 5) remarks,[9] Thomas Hurka (2019) argues that such views—views according to which actions or states of affairs have some ethical property only if one believes that they have it—face a dilemma. Either they make it a necessary condition for something to have the relevant ethical property that one must have a false belief, or they generate an infinite regress of beliefs.

To see how Hurka's dilemma works in the Halakhic case, let's call the view according to which *mitzvot* require intention, M:

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[8] For such (mistaken) interpretations of Kant, see Sidgwick (1886, 260), Ross (2002, 5), and Broad (1930, 116).
[9] The same problem has been raised and discussed by Prichard (2002, 219); for another related predecessor, see also Hume's *Treatise*, 3.2.5 (1739/2007, 331-7). I thank an anonymous referee for these references.

(M)   An act is a *mitzvah* only if one's motivation in performing it is *because it's a mitzvah*.

And since for one to φ for the specific reason that p, one must *believe* that p, and so to perform an act *because it's a mitzvah* one must believe that it's a *mitzvah*, M entails:

(M*)   An act is a *mitzvah* only if it's accompanied by a belief that *it's a mitzvah*.

Now, Hurka's dilemma arises when we ask what exactly the content of the required belief is, according to M*. Perhaps it's the belief *that this act is a mitzvah in itself, regardless of any accompanying motives or beliefs*.[10] But according to M* itself, that belief is false—since M* dictates that an act is a *mitzvah* only when accompanied by a belief that it is a *mitzvah*. So, on this horn of the dilemma, M* requires one to believe falsehoods, by its own light, in order to fulfill the *mitzvot*. But it seems odd for a view to make it a necessary condition for an act being a *mitzvah* that it is accompanied by a false belief about its Halakhic status.

The second possibility tries to avoid this difficulty by making the content of the required belief something that M* itself says can be true. This possibility says that the required belief is the more complex belief *that this act is a mitzvah only if it's accompanied by the belief that it's a mitzvah*. Now, according to M*, this more complex belief may be true. But the same problem arises regarding the content of the belief embedded in this belief, namely, the belief one must believe that's present for the act's being a *mitzvah* (according to M*). If it's the belief *that this act is a mitzvah in itself, regardless of any accompanying beliefs*, then this embedded belief is again false, according to M*. And it again seems odd to require, as a condition for performing a *mitzvah*, that one must believe that one's act is a *mitzvah* only when accompanied by a false belief about its being a *mitzvah*. And making the embedded belief conditional on a further belief about the act's being a *mitzvah* only raises the same difficulty about that further belief, leading to an infinite regress of beliefs. So, according to M*, to perform a *mitzvah* while avoiding believing falsehoods, one must believe₁ *that this act is a mitzvah only when accompanied by a belief₂ that it's a mitzvah only when accompanied by a belief₃ that it's a mitzvah only when accompanied by a belief₄ that it's a mitzvah only when…*. At no point, then, do we reach a determinate belief with no false content. Hence the dilemma: either M (which entails M*) makes it a necessary condition for the act's being a *mitzvah* that one has a false belief, or it generates an infinite regress of beliefs. So goes Hurka's dilemma (applied to the Halakhic case).

3.1 An Infinite Regress?

Thus construed, however, I don't think that proponents of M (or the relevant Kantian view) should be discouraged by Hurka's dilemma. This is because it's not clear that the second possibility—that the relevant belief should be understood as having the content of *this act is a mitzvah only if it's accompanied by the belief that it's a mitzvah*—necessarily commits one to believe in an infinite regress. One might suggest, for example, that this belief should be understood as a reflexive (i.e., self-referring) one, and hence as one that poses no threat of an infinite regress. If the content of the belief in the right-hand side of the conditional can be understood as simply referring to the conditional's left-hand side, no regress appears.[11]

Of course, there may be other worries about this reflexive interpretation of that belief. For example, such a belief might be seen as vacuous in an important sense (cf. Searle 1995,

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[10] In order to avoid ambiguities, here and throughout the paper I italicize the that-clause when an italicized clause denotes the object of a belief. I thank the editors of this journal for suggesting this way of presenting things.
[11] I thank an anonymous referee for suggesting this possibility.

33; 52-3). Fortunately, though, we do not need to settle this matter here. This is because, in our Halakhic case, Hurka's second possibility is an undermotivated possibility to begin with: the relevant belief cannot plausibly be understood as having the content of *this act is a mitzvah only if it's accompanied by the belief that it's a mitzvah*. And this is so for a reason that is entirely independent of considerations such as that it leads to an infinite regress or that it's a (vacuous) reflexive belief.

The reason is this: to say that a necessary condition of an act's being a *mitzvah* is that one must believe *that this act is a mitzvah only if it's accompanied by the belief that it's a mitzvah* is highly implausible as an interpretation of the relevant Halakhic texts. Not only that there is no indication that such a complex belief is necessary from these texts, but requiring it will have implausible Halakhic consequences. For example, if one believes that *mitzvot* don't require intention (as some Rabbis hold), one believes that no accompanying intention, motive, or belief is necessary for performing the *mitzvot*. But if such a complex belief is indeed necessary for performing the *mitzvot* (as Hurka's second possibility suggests), it follows that those who believe that *mitzvot* don't require intention cannot consistently fulfill the *mitzvot*—since they cannot (or at least, cannot *consistently*) hold the belief *that this act is a mitzvah only if it's accompanied by the belief that it's a mitzvah*. But this is implausible—surely the '*mitzvot* require intention' view doesn't commit one to also believe in the view itself—that is, to believe that *mitzvot require intention* (or that *mitzvot* require belief)—in order to fulfill the *mitzvot*.

So Hurka's second possibility, though doesn't necessarily lead to an infinite regress, is still not a viable option for interpreting the belief that's required for performing the *mitzvot* (according to the '*mitzvot* require intention' view). This, however, doesn't mean that proponents of M are necessarily committed to the dilemma's first horn and to require a false belief to fulfill the *mitzvot*. There is another possibility here, which, I'll argue, comes at a different cost.

3.2 Rationality Failure

In the context of presenting his dilemma for structurally similar ethical views, Hurka points out that one may object to his dilemma by suggesting a third possibility. According to this possibility, the relevant belief needn't be understood as having the content of *this act is a mitzvah in itself, regardless of any accompanying motives or beliefs*. Rather, one can perform the act with the simple belief that it's a *mitzvah*, "With no reference, either negative or positive, to an accompanying belief, and a refusal to make any such reference" (Hurka 2019, 76). Unlike Hurka's second possibility, I take this suggestion to be a genuine option for interpreting the relevant belief; if such a belief is possible, proponents of M are off the hook.

Now, in his rejection of this possibility, Hurka argues that such a belief lacks what's standardly taken to be an essential or defining property of belief: its mind-to-world direction of fit. As he points out,

> We normally think of a belief as affirming a state of affairs that is independent of it and determines its truth or falsity. If the state of affairs obtains, that makes the belief true; if the state doesn't obtain, that makes it false. (*Ibid*, 76)

To see Hurka's problem, suppose that one's act satisfies the relevant objective conditions for the act being a *mitzvah* (e.g., the *shofar* is kosher, it's made from the right sort of animal, has no defects, one blew it sufficiently many times, etc.), and that one believes that. And suppose that one forms the 'simple' belief *that this act is a mitzvah*, without any reference to any accompanying

belief or motive. The problem here, according to Hurka, is that if one believes M, one is committed to the view that one's belief that this act is a *mitzvah* will make all the difference between the act's being a *mitzvah* and its not being one, and will thereby make its own content true. In such a case, if S believes M, S's ('simple') belief that her act is a *mitzvah* will be self-validating and thus will have the opposite, world-to-mind direction of fit. "How then," asks Hurka, "can you form this belief *as a belief*… That would require treating as independent of your believing something that by your own lights isn't independent" (*ibid*, 77).

By itself, though, this response is unsatisfying. There are, after all, many cases of self-fulfilling beliefs (i.e., beliefs that are true only if one believes that they are true), that appear to be entirely possible. Suppose that a drug will cure me only if I believe that it will cure me. At least at first glance, it's not clear that anything prevents me from forming the belief *that this drug will cure me* (with no reference, either positive or negative, to an accompanying belief), and thus making its content true (provided that other necessary conditions, which are jointly sufficient for this drug to cure me, are satisfied). But if Hurka's response to the above-mentioned objection is sound, we would expect that since such a belief has the opposite, world-to-mind direction of fit, it would be *impossible* to form it. This seems wrong.[12]

To declare self-fulfilling beliefs as *impossible*, then, seems to be too strong. But such beliefs, I'll argue now, do give raise to a different problem: not that they cannot be formed, but rather that they cannot be formed without exemplifying a sort of rationality failure.

Let's distinguish, first, between first- and third-person cases. Suppose that we discover that some specific medicine doesn't work unless the patients taking it also believe that it will cure them. Put differently, we observe that if a patient takes this drug while believing that it will cure her, it may cure her; if she doesn't believe that, it will not. Based on these observations, we infer that a necessary condition for this drug to cure a patient is that the patient believes that it will cure her. In such a case, even though these patients' beliefs are self-fulfilling in the relevant sense (they can make their own content true), there seems to be nothing problematic with our conclusion, and furthermore, there seems to be nothing problematic with ascribing these patients such beliefs. From a *third-person* perspective, then, there is nothing problematic with self-fulfilling beliefs; we have no problem ascribing self-fulfilling beliefs to other people.

From a *first-person* perspective, however, things are messier. To see this, consider now not the patient's point of view, but rather the *physician*'s. Suppose that, after concluding that this drug will cure someone only if the person taking it believes that it will cure her, our physician found herself in the same medical condition she has investigated, and so she is now going to take the relevant drug. Based on her inquiry, she believes that the drug will cure her only if she believes that it will cure her. Since she wants to be cured, just before taking the drug, she forms the belief that it will cure her (without any reference to an accompanying belief).

It seems to me that, unlike in the previous case, this case is much more suspicious. There seems to be some kind of rationality failure, or perhaps a kind of self-deception in our physician forming the belief that the drug will cure her. After all, what can her basis for forming that belief be? Her medical observations support only the conditional: that the drug will cure her only if she believes that it will cure her. But they do not support the belief that the drug will cure her—they would support it only if she has already had it; she still needs a reason to form that belief in the first place (i.e., before she has already had it).[13] So it's true that if she has already found herself having that belief, she would have good epistemic reasons for

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[12] I thank an anonymous referee for pressing me on this point.
[13] For a similar line of argument, see Grice (1971, 274); for discussion, see Antill (2019).

holding it. But she has no such reasons to form that belief in the first place; the only reasons she may have for forming that belief in the first place are pragmatic, and presumably of the wrong kind: that she wants or desires to be cured.

Returning to our main thread, then, there seems to be a crucial difference between the 'naïve' religious person and the Halakhic scholar; or more precisely, between the naïve religious person and the Halakhic scholar *who believes in M*. Like our patient in the previous example, the naïve religious person has no problem believing that her act is a *mitzvah*, in a way that (according to M) could make her belief's content true. After all, the naïve religious person lacks the belief that her believing so will make her belief about her act's Halakhic status true. And the same goes, of course, for someone who rejects M and thus believes that no belief is necessary for the act's being a *mitzvah*. But if someone believes in M (such as the authors of *Mishnah Berurah*, *Piskei Teshuvot*, and *Peninei Halakha*), then she seems to be in the same situation in which our physician was: she must believe that *having the relevant belief* (i.e., that her act is a *mitzvah*) will make its own content true. Like our physician, our Halakhic scholar who believes in M may have good epistemic reasons for believing the conditional: that her act is a *mitzvah* only if she believes that it's a *mitzvah*. The problem, however, is that she lacks an epistemic basis for forming the belief that her act is a *mitzvah*, given that, by her own light—and by what is supported by her evidence—this requires already having that very same belief. As before, if she finds herself with that belief, she would be in good epistemic standing in holding it. But she has no genuine epistemic reason to form that belief in the first place. She may, for instance, form that belief because she desires to perform a *mitzvah*. But this would be only pragmatic, and a wrong kind of reason to form that belief. Thus, this way of avoiding Hurka's dilemma, though possible, comes at the cost of committing to saying that proponents of M (such as the authors of *Mishnah Berurah*, *Piskei Teshuvot*, and *Peninei Halakha*) cannot fulfill the *mitzvot* without exemplifying a sort of rationality failure. This seems like a grave cost.

We are now in a position to state my revised dilemma for M: either M makes it a necessary condition for the act's being a *mitzvah* that one has a false belief about the act's Halakhic status, or it commits proponents of M to a sort of rational failure in performing the *mitzvot*.

4. Revise the Predicates?

The dilemma arises since according to M, an act's Halakhic status (i.e., whether it's a *mitzvah* or not) is at least partly constituted by the agent's belief that it has this status. To avoid the dilemma, then, the view must be revised such that it will not be committed to this feature. In particular, the following scheme:

(S) S's φ-ing is F only if S's motivation in φ-ing is because φ-ing is F,

And what (S) entails (given that to φ for the specific reason that *p*, one must believe that *p*), namely,

(S*) S's φ-ing is F only if one believes that φ-ing is F,

Must be revised such that the two Fs on either sides of the conditional will not refer to the same property.

Indeed, in his paper, Hurka argues that the Kantian view he discusses avoids his dilemma exactly because, when properly understood, it isn't committed to these two predicates referring

to the same property. In this section, I argue that even if such moves may be available in relation to the relevant Kantian view, they aren't available vis-à-vis our Halakhic view.

4.1 *Mitzvah* vs. Religious Worth

Let's call the (allegedly) Kantian view about the rightness of actions, K:

(K)   An act is right only if one's motivation in doing it is *because it's right*.

And given that to do an act because it's right, one must believe that it's right, K entails:

(K*)   An act is right only if it's accompanied by a belief that it's right.

Now, the first way to revise K such that it would avoid Hurka's dilemma is to change the property on the left-hand side of K (and K*) to something other than 'rightness.' As Kant scholars have emphasized, Kant shouldn't be understood as saying that to perform an act because it's right or from the motive of duty is a necessary condition for the act's *rightness*. Rather, to perform an act because it's right is a necessary condition for the act's *moral worth*, which is a different property from its rightness (Ross 1939, 139; Henson 1979, 39-42; cf. Timmons 2017, ch. 5). This interpretation of Kant distinguishes two ethical properties— *rightness* and *moral worthiness*—and suggests that an act can have the property of rightness *independently of any accompanying beliefs and motives*, while a belief about the act's having that property (and the relevant motivation) is necessary for the act's having the different property of *moral worthiness*. So, on this reading of Kant, one's belief that the relevant act is right regardless of one's motives or accompanying beliefs can be true simpliciter.

Turning to the Halakhic case, such a move suggests that, while one's motivations and beliefs about the Halakhic status of the act are important in enhancing the act's religious value, the act's religious value doesn't require as a necessary condition such a motivation and belief. Thus, it might be suggested that according to the '*mitzvot* require intention' view, one's act has *religious worth*, or exemplifies religious excellence, or is a *mitzvah lamehadrin* (a *mitzvah* of the scrupulous) only if one does it because it's a *mitzvah*, and so only if one believes that it's a *mitzvah*. And this revised view, as we just saw, avoids the dilemma.

But unlike the analogous suggestion in the moral case, this move is in principle blocked for proponents of the '*mitzvot* require intention' view. Such a revised view is, in fact, exactly what the opposite view—the '*mitzvot don't* require intention' view—says. Even for those who hold that *mitzvot* don't require intention, it's not the case that one's intentions (to fulfill a *mitzvah*) aren't relevant at all for the act's religious value. As the *Mishnah Berurah* says, "[F]or an ideal performance of a *mitzvah*, everyone [i.e., even those who hold that *mitzvot* don't require intention] agrees that one must have an intention" (*Mishnah Berurah* 60:7). The dispute between those who hold that *mitzvot* require intention and those who hold that they don't, then, cannot be understood as being about the *religious worth* of an act that has been performed without the relevant intention. Rather, it must be about whether such an act counts as a *mitzvah* at all. So, in our Halakhic case, to revise the left-hand side of M in such a way is in principle unavailable.

4.2 *Mitzvah* vs. *Mitzvah*-Making Features

The second way to revise K such that it avoids the dilemma is to secure the claim that a certain belief is necessary for rightness, while changing the property that figures in the right-hand side of the conditional—the property that figures in the content of the required belief—to

something other than *rightness*. Thus, one might suggest that the relevant motive and belief that are necessary for the act's rightness aren't motives or beliefs regarding the act's rightness *de dicto*, but rather motive and belief regarding the act's rightness *de re*, and more specifically, motive and belief regarding the act's *right-making features* (cf. Arpaly 2002, 72; Markovits 2010).

Let me explain. Suppose that in the circumstances in which I find myself, the right thing to do would be to donate a certain sum of my income to charity. And suppose, furthermore, that I'm indeed motivated to do so. If I'm so motivated *because* it's the right thing to do, but not, say, because of the poor's interests, then I'm motivated to act rightly *de dicto*, under this (moral) description. If, however, I'm motivated by concern for the poor and their interests and by the fact that my donation will relieve them—even without any thoughts about the moral status of my action—then I'm motivated to act rightly *de re*; I'm motivated to do the act which is, as a matter of fact, the right thing to do, but not under this (moral) description. And if, as it happens, the fact that my donation will relieve the poor is what *makes* my donation right—if this is the reason for which my donation is the right thing to do—then I'm motivated to do the right thing because of its *right-making features* (even if not under that description). In such a case, then, the agent's *motivating reasons* in performing the action and the *normative reasons* (the reasons for which the action is right) are in fact the same.

Under this suggestion, one's act is right only if one does it because of its right-making features (but not necessarily because it's right *de dicto*), and so only if one *believes* that it has these right-making features (*de re*). But since, whether the relevant act has these right-making feature (in the example, whether my donation will relieve the poor) is an objective matter that doesn't depend on my beliefs, my belief that the relevant act possesses these right-making features (in the example, my belief that my act will relieve the poor) can be true simpliciter. Hence, such a view avoids the dilemma.

Turning to the Halakhic case, then, what are the candidates for being the relevant *mitzvah-making features* of the act? Note that to preserve the analogy with the moral case—where, for example, the fact that my donation will relieve the poor serves as a right-making feature of my donation—the relevant candidates for being the *mitzvah*-making features of the act seem to be some non-normative—perhaps natural—properties of the act that make the act a *mitzvah*. To take one example, consider the *mitzvah* (from the Torah) of taking a *lulav* on the first day of *Sukkot*.[14] Under this understanding of the *mitzvah*-making features, the *mitzvah*-making features of this act are things like that it's the 15th of *Tishrei* (the first day of *Sukkot*), that the *lulav* is in a specific shape and size, and so on.

The problem with this understanding of the *mitzvah*-making features of the act is that it isn't clear at all how such features—the date of the action and the natural properties of the object that the action is done with—could play any motivational role *by themselves*. Compare this, again, to the moral case. To answer the question of "why did you donate to charity?" with the answer "because it will relieve the poor," seems like a reasonable response—even without any moral assumptions "in the background." The fact that my donation will relieve the poor seems to be something that one can be sensibly motivated by, without any thoughts about morality. But the equivalent answer in the Halakhic case doesn't seem reasonable.

If someone asks me, "why did you take a *lulav*?," and my answer will be something like "because it's the 15th of *Tishrei*" and/or that "this *lulav* is a straight one, it isn't forked" (and so on), it wouldn't seem like a reasonable answer *without any religious assumptions 'in the background.'*

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[14] The *mitzvah* of taking a *lulav* is from the Torah only at the first day of *Sukkot*, while at the other days of *Sukkot* it's only from Rabbinic sources.

Usually, the fact that the *lulav* has these properties (or that this is the relevant date) doesn't seem like something that could play any motivational role *by itself,* without any religious thoughts about Halakha or God.[15] What's needed, then, is a (motivating) reason for performing the act (that has these natural properties), while the mere fact that the act has these natural properties cannot be taken as such a (motivating) reason.

A more plausible candidate for being the *mitzvah*-making feature of the act, then, seems to be the act's *non*-natural features—its *super*-natural ones—namely, the fact that God has commanded us to do it.[16] And unlike the act's natural features (by themselves), the fact that God has commanded us to perform an action does seem like something that can reasonably motivate one to perform that action. If someone asks me "why did you take a *lulav?*," and my answer is "because God has commanded me to do it," this seems like a perfectly reasonable response. If this is the relevant *mitzvah*-making feature of the act, this suggests that to revise M to avoid the dilemma, we need to distinguish between the act's being a *mitzvah* and the act's being something that God has commanded to do, and to say that only the latter should figure as the content of one's motivations and beliefs in performing the *mitzvot*.

But can any distinction be drawn between the act's being a *mitzvah* and the act's being something that God has commanded to do? In a closely related context, David Benatar (2001) has argued that even if the concept of a *mitzvah* (a commandment) entails the existence of a divine commander, one can believe that an act is a *mitzvah* without believing that God has commanded it: "somebody may use the term [*mitzvah*] to denote merely a Jewish precept without meaning by that, that it was commanded by God" (101). If one uses the term '*mitzvah*' in such a way, Benatar argues, then even if for an act to be a *mitzvah* is for it to be an act that God has commanded, it doesn't follow that if one intends to perform an act because it's a *mitzvah* (*de dicto*), one intends to perform the act because God has commanded it (*de dicto*). In his terminology, one can have a *mitzvah-intention* without *God-intention*.[17]

If Benatar is correct, and there really can be a distinction between *mitzvah-intention* and *God-intention*, then we have a possible way to revise M to avoid the dilemma. We could revise M into MG:

> (MG)   An act is a *mitzvah* only if one's motivation in performing it is *to fulfill God's commandment.*

Indeed, MG seems like a plausible interpretation of the passages cited in §2. Both the *Piskei Teshuvot* and the *Peninei Halakha*, for instance, explicitly endorse what Benatar termed *God-intention* as a necessary condition for fulfilling a *mitzvah*: the relevant intention is supposed to be "to fulfill *mitzvah* x [*plonit*] as our God commands us" (*Piskei Teshuvot, ibid*) or that we must have in mind that "we are fulfilling Hashem's commandment" (*Peninei Halakha, ibid*). So to establish *God-intention* as a suitable interpretation of the '*mitzvot* require intention' principle seems indeed very plausible. But can MG avoid the dilemma?

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[15] See also Enoch and Weinshtock Saadon (forthcoming, §2) for further discussion of such disanalogies between moral and religious motivations *de re*, especially regarding (religious) sins and (morally) wrong acts.

[16] Another candidate for being the *mitzvah*-making feature of the act is *the reasons for the commandment* (assuming that there are such reasons that are independent from the fact *that* God has commanded it). For brevity, I'll not discuss this possibility. But note that even if some Halakhic views hold that one must perform the relevant act because of the reasons for which it has been commanded, they explicitly note that a motivation to perform the act in order to fulfill one's obligation (i.e., to fulfill a *mitzvah de dicto*) is also required. See, for instance, *Mishnah Berurah* (8:19).

[17] See also Benatar (2006) for a related argument for why a (Jewish) atheist may still have reasons to observe the *mitzvot*.

Just as M entails M*, MG entails:

(MG*)   An act is a *mitzvah* only if it's accompanied by a belief that it fulfills God's commandment.

Now we should ask what exactly the content of the required belief is, according to MG*. On its face, MG* itself can provide a desirable (true) content: one's belief *that this act in itself, regardless of any accompanying motives or beliefs, fulfills God's commandment* may be true by MG*'s light. Taken as stated, MG* doesn't say anything about whether *God* has commanded to do the *mitzvot* with any accompanying beliefs or motives; the accompanying belief that's required (that it fulfills God's commandment) is for the act's being a *mitzvah*, not for the act's being something that fulfills God's commandment. This might seem promising.

Let me say at the outset that there is something attractive in thinking about MG as a solution to our dilemma. On this line of thought, the dilemma arises because the religious agent cares about fulfilling her Halakhic obligations *per se*, and not about what 'really matters' here: fulfilling God's commandment. This might be described as the problem of 'Halakhic fetishism,' the Halakhic analog of Michael Smith's (1994, 76) accusations of caring about morality *de dicto* as being 'morally fetishistic.' And if we substitute the object of caring from the *mitzvot* to God's commandments, the dilemma seems to be avoided.

Despite this move's attractiveness, I don't think it provides a satisfactory solution to our dilemma. Even if MG in itself isn't vulnerable to the dilemma, assessing it from a broader perspective of Orthodox-Judaism seems to bring the dilemma back. For MG to avoid the dilemma, it must adhere to the claim that 'being such as to fulfill God's commandment' is an *extensionally* different property than 'being a *mitzvah*.' If these properties are extensionally equivalent, or at least, if anything that instantiates the former instantiates the latter, then in non-opaque contexts (as in the left-hand side of MG), it will always be legitimate to substitute 'being a *mitzvah*' with 'being such as to fulfill God's commandment.' Accordingly, MG collapses into:

(G)   An act fulfills God's commandment only if one's motivation in performing it is *to fulfill God's commandment*.

But since G entails:

(G*)   An act fulfills God's commandment only if it's accompanied by a belief that *it fulfills God's commandment,*

and G* is vulnerable to our dilemma in the same way in which M* is, no progress has been made by revising M into MG.

Can Orthodox-Judaism deny the extensional equivalence that brought the dilemma back? In particular, can one fulfill God's commandment without thereby fulfilling a Halakhic requirement? One may argue, for instance, that when Moses went to Pharaoh and told him to let the Israelites depart from Egypt, he fulfilled God's commandment (in Exodus 6:11) without thereby fulfilling a Halakhic requirement. But it's not clear that such cases exist after the Torah was given. There are, of course, difficult epistemological questions in the vicinity here. It's not clear, for example, how we can gain knowledge about God's commandments outside of the Halakhic framework. But the relevant question here is metaphysical, one that wouldn't get a unified answer from Jewish theologians. If the only way to defend the Halakhic principle of '*mitzvot* require intention' is to adopt a controversial theological view about the metaphysical

relations between God's commandments and Halakhic requirements, this seems to be a severe cost for this view.

Furthermore, note that even if we grant that some actions can fulfill God's commandment without thereby fulfilling a Halakhic obligation, this wouldn't necessarily help MG to escape the dilemma. It's hard to deny, on Orthodox-Judaism grounds, that the opposite entailment holds—that anything that fulfills a Halakhic obligation fulfills God's commandment.[18] So, if there is a Halakhic obligation to perform the *mitzvot* with an intention, then God has commanded to perform the *mitzvot* with an intention. Though this doesn't, by itself, secure the inference from MG to G, this observation puts pressure on anyone who wants to accept MG and to deny G—at least when it comes to actions that, with the right sort of intention, would fulfill Halakhic obligations (i.e., *mitzvot*).

Suppose that when Moses went to Pharaoh and told him to let the Israelites depart from Egypt, Moses fulfilled God's commandment without thereby fulfilling a Halakhic obligation. I do not see a principled reason to deny that, in this case, Moses would have fulfilled God's commandment even if he hadn't performed this action with an intention to fulfill God's commandment. If that's correct, then G, as stated, is false. But this does not yet establish that MG is off the hook. To save MG from the dilemma, what's required is not only that some actions can fulfill God's commandment without an intention to fulfill God's commandment, but that *mitzvot* (that require an intention) fulfill God's commandment without an intention to fulfill God's commandment. And this, I shall argue now, seems highly implausible.

Consider, for example, the *mitzvah* of blowing a *shofar* on Rosh Hashanah. According to MG, blowing a shofar on Rosh Hashanah is a *mitzvah* only if one does it because it fulfills God's commandment. Suppose that S blows a kosher *shofar* on Rosh Hashanah because it fulfills God's commandment, and thus performs a *mitzvah*. Notice that for MG to avoid the dilemma, we must assume that unlike the *mitzvot*, God's commandments don't require intention. Thus, we must assume that had S blown the *shofar* without the relevant intention, he would have fulfilled God's commandment (even if he wouldn't have fulfilled his Halakhic obligation). Only if that's correct, then MG would be able to avoid the dilemma: S's belief *that this act in itself, regardless of any accompanying motives or beliefs, fulfills God's commandment* would be true, and by being motivated to fulfill God's commandment, S will satisfy the intention requirement and fulfill a *mitzvah*.

Recall, however, that on Orthodox-Judaism grounds, every fulfillment of a Halakhic obligation fulfills God's commandment. So, in virtue of his fulfillment of a Halakhic obligation (by blowing the *shofar* with the right sort of intention) S has fulfilled God's commandment. But if that's correct, then in blowing the *shofar* with an intention to fulfill God's commandment, S has in fact fulfilled *two distinct* Divine commandments: the first is to blow the shofar, whereas the second is to blow the shofar with an intention to fulfill God's commandment (which fulfill God's commandment in virtue of fulfilling a Halakhic obligation). So, in order to escape the dilemma, proponents of MG must say that fulfillment of every *mitzvah* (that requires intention) is accompanied by fulfillment of two distinct Divine commandments: the first is to 'simply do the act' regardless of one's intentions, and the second is to do the act with the right sort of intention (i.e., to fulfill God's commandment). Only if one fulfills these two distinct Divine commandments in fulfilling every *mitzvah* (that requires intention), could MG escape the dilemma.

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[18] And this holds, on Orthodox-Judaism grounds, even for Halakhic obligations that are from Rabbinic (rather than Biblical) sources. See, for instance, Babylonian Talmud, Tractate *Shabbat*, 23a.

Though this isn't a knockdown argument, this seems to me highly implausible. Such a bifurcation of God's commandments regarding the *mitzvot* (to perform them even without an intention, and to perform them with an intention) is utterly mysterious, and the Halakhic and theological texts do not provide us any evidence for its existence. And notice how the alternative, more traditional view about the relations between God and Halakha presents a much simpler account of the 'Divine landscape:' God's commandments (at least regarding the *mitzvot*) are fulfilled only if they are performed in accordance with Halakhic norms. But in that case, the dilemma arises again. Hence, despite its attractiveness, I conclude that at least under Orthodox-Judaism assumptions, interpreting the '*mitzvot* require intention' principle as MG wouldn't help in avoiding the dilemma.

Proponents of M, then, cannot avoid the dilemma by revising the predicates that figure on either of M's sides. Such revision faces exegetical problems in the relevant Halakhic texts, or conflict with basic tenets of ethical theories or Orthodox-Judaism theology. So, strategies that can save ethical views from Hurka's dilemma cannot help us escape our dilemma. But perhaps there's a way to understand the 'intention requirement' not as a requirement to be motivated to perform the relevant act *because* it's a *mitzvah*, but in some other way that doesn't require the agent to form any belief. In the remainder of this paper, I suggest that there is such a way.

5. Make-Belief in Orthodox-Judaism

Sam Lebens (2013; 2020, ch. 9) has recently argued that even when the religious Jew is required to believe in certain propositions, mere belief isn't enough; at least sometimes, she must also *make-believe*. In Lebens's terminology, "To make-believe that *p* is to try to experience the world, and your place in it, as if *p* were true" (2013, 325). Note that by 'make-belief', Lebens doesn't mean to refer to a mental state that necessarily entails that the relevant proposition is false or that one believes that it's false. For example, you can try to experience the world moving around the sun at 100,000 km/h, even though it's true and you believe that it's true; there is something that's experiential in nature, which goes beyond merely believing it.[19] So, to be a truly religious Jew, Lebens argues, one must *try to experience* the content of (some of) the propositions one believes.

Exodus 20:2 is usually understood as a commandment to believe in God. Lebens cites Rabbi Samson Raphael Hirsch's (1808-1888) commentary to this verse, and suggests that:

> What Rabbi Hirsh is asking us to do, in the name of the Ten Commandments, isn't merely to believe that God exists, but also, to *make-believe that He exists*; to experience reality, and your place in it, as a world in which God exists. (*Ibid*, 325)

According to Lebens, then, Rabbi Hirsch's point is that *merely* believing that God exists isn't the right propositional attitude; one must also *make-believe* it—one must try to experience, in a vividly imaginative way, its content as true.

But Lebens goes further. Not only is the religious Jew required to make-believe some purportedly true propositions, but there are even "situations in which the religious Jew doesn't have to believe at all, but he/she still has to make-believe" (*ibid*, 316). According to him, make-believing things that aren't true—and that one believes to be untrue—can sometimes have corrective effects. For example, if you have to give a speech in front of a massive audience,

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[19] See also Munro (2021) for an account of imagining what is (even what one believes is) actual.

you might be wracked with nervousness. But then a friend suggests pretending everyone in the audience is wearing a silly hat. If such a suggestion works to calm your nervousness, then according to Lebens, though you know that they're not wearing silly hats, "the very attempt to visualize the hats may insert just enough irreverence into the proceedings so as to overcome your nerves. Your friend is appealing to what I have here called the *corrective effects of make-believe*" (*Ibid*, 329). Similarly, Lebens argues, there are occasions in which the religious Jew is required to make-believe falsehoods—even things she believes are false—because of the corrective effects of such a make-believing.

One of Lebens's examples of such a requirement to make-believe falsehoods is from Maimonides's *Laws of Repentance*:

> A person needs to view himself, throughout the entire year, as if he were equally balanced between merit and sin and the world were equally balanced between merit and sin. If he performs one sin, he tips his balance and that of the entire world to the side of guilt and brings destruction upon himself. If he fulfills one commandment, he tips his balance and that of the entire world to the side of merit and brings deliverance and salvation to himself and others. (*Law of Repentance*, 3:4)

As Lebens points out, some classical commentaries seem perplexed as to how Maimonides could say these things: "We all sin. And, the world doesn't end." But according to Lebens, Maimonides knows it's not true: "He wasn't stating these things as a matter of fact. You're not supposed to believe it. But, you are supposed to *make-believe* it" (2013, 329). [20]

Another example of such make-believing is from Rabbi Kalonymus Kalman Shapira (1889-1943). In his book *Bnei Machshava Tova*, he mentions a student who was frustrated by the fact that he cannot imagine God while praying. In traditional Jewish thought, it's forbidden to imagine God as having an image or figure.

"If only I could imagine before me a figure while I stand before God in prayer," complained the student, "I would wake up like one who asks and begs before the Almighty who could save me, or I would be shocked and moved in awe by the thought and the image itself that I stand before the throne of God." In response, Rabbi Shapira says that this student could rely on the minority view of Rabbi Abraham ben David (*RABaD*) (1125-1198), who argued that Maimonides was wrong when saying (in his *Laws of repentance,* 3:7) that those who say that God has a physical image are "heretics" (*minim*). According to Rabbi Shapira, what *RABaD* meant here isn't that it's permissible to think that God has an image; one must believe (and even "know") that God has no image. But one is permitted, when standing in prayer, to imagine God as having an image if this would help one to engage emotionally with the prayer.[21] Rabbi Shapira goes on to offer this as advice for the reader who finds it difficult to engage emotionally with prayer. Put differently, what Rabbi Shapira suggests is that even if one doesn't (and shouldn't) *believe* that God has an image, one could *make-believe* that God has such an image if this would help one engage in one's prayers more deeply.

This last example is more controversial than the example that Lebens draws from Maimonides. What's at stake here is who counts as a heretic. In the next section, though, I'll argue that something in the vicinity of what Rabbi Shapira's student complains about may occur when one accepts the '*mitzvot* require intention' view.

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[20] Lebens suggests another example from the Passover *Haggadah*, the book that contains the text and the liturgy for the Seder Night, the first night of Passover. See Lebens (2013, 230) and (2020, 292).

[21] See also Rabbi Joseph Soloveitchik (1986, 115) who interprets this dispute between Maimonides and RABaD in a similar vein.

6. *Mitzvot* Require Make-Belief

Could make-belief be used in a different and defensible interpretation of the '*mitzvot* require intention' principle; one that avoids our dilemma?

Let's call the view that utilizes this notion of make-belief in our context, MB:

(MB)   An act is a *mitzvah* only if it's accompanied by a make-belief that it's a *mitzvah* (understood as a fulfillment of God's commandment).

On Lebens's understanding of make-belief, this means that according to MB, a necessary condition for an act's being a *mitzvah* is that when one performs it, one must try to experience *as if* one's act is a *mitzvah*, and so a fulfillment of God's commandment.

But what exactly is the content of the make-belief that's required, according to MB? I suggest that it can adhere to something like the first horn of Hurka's dilemma: the content of this make-believing is that one's act in itself, regardless of any accompanying mental states that one has, is a *mitzvah*. By MB's light, of course, the content of such a make-belief is false; and if one believes in MB, one also believes that it's false. But as we just saw, such a requirement—to make-believe what one believes (or should believe) is false—isn't as alien to Orthodox-Judaism as one might have thought. If we are willing to accept that Halakha may require one to make-believe falsehoods (and even what one believes and should believe to be false), then there is no further problem analogous to the one that Hurka's dilemma raises, even if the content of such a make-belief is false. Under this understanding of MB, then, even if *mitzvot* require intention (that is, make-belief), we should make-believe that they *don't*. And this make-belief satisfies the relevant necessary condition for the act's being *a mitzvah* (according to the '*mitzvot* require intention' view).

Is such an interpretation plausible? If we settle for MB and thus give up a *belief* requirement, then—at least under the standard understanding of 'acting for a reason'—we must give up the motivation and 'acting for a reason' component of the '*mitzvot* require intention' view. That is, it will no longer be true that Halakah cares—as a necessary conditions for performing a *mitzvah*—about one's motivation in performing a *mitzvah*. What's important ('mentally,' as it were) is only that one tries to experience the relevant action *as if* it's a *mitzvah*, even if one isn't motivated to perform a *mitzvah* at all. For example, for MB, if one blows a (kosher) *shofar* on Rosh Hashanah in order to make music, but then decides (for whatever reason) to try to experience as if his blowing is a *mitzvah*, this will suffice for it being a *mitzvah* (or at least, this will suffice for satisfying the intention requirement, understood as MB). To take a more extreme example, an atheist who doesn't believe in God nor the *mitzvot* but decides to blow a *shofar* on Rosh Hashanah while trying to experience it as if his blowing is a *mitzvah* (because, say, he failed in a bet with a theist friend and this was part of the deal), will fulfill a *mitzvah* (or will satisfy the intention requirement, understood as MB).

I confess that I don't find these results too problematic. But even if one does, note that they seem much *less problematic* than analogous results in the moral case. Indeed, it seems clear that from a Kantian point of view, there will be no morally relevant difference between two people who act for selfish reasons if one of them simply tries to experience her action *as if* it were right (or morally worthy). But things are different in the Halakhic case. Here, even if it's less than ideal to do a *mitzvah* for selfish reasons, there still seems to be a difference between the religious value of an act that's done for selfish reasons but with the attempt to make-believe that one's act has religious value, and one that's done without such a make-belief.

What could explain this difference between the moral and the Halakhic case? I believe that it stems from the Kantian intuition being an intuition about the non-arbitrariness or 'robustness' of one's acting in accordance with the moral law, not about what one experiences (or tries to experience) while doing what's right. Thus, Kant says:

> In the case of what is to be morally good it is not enough that it [i.e., the action] *conform* with the moral law but it must also be done *for the sake of the law*; without this, that conformity is only very contingent and precarious, since a ground that is not moral will indeed now and then produce actions in conformity with the law, but it will also often produce actions contrary to law. (Kant 1785/1998, 3-4 (4:390))

If Kant (or a Kantian) cares about the way in which the agent 'experiences' her action, this is only to the extent that such an experience will tend to produce actions in accordance with the law, perhaps in counterfactual circumstances (Herman 1981, 363-6; Sliwa 2016, 2). But the Halakhic intuition, I suspect, is precisely an intuition about what one should experience (or try to experience) when engaging in the worship of God.[22]

Turning to the Halakhic texts, what can be said in favor of MB as a possible interpretation of the '*mitzvot* require intention' view? I believe that support can be gained for this by the emphasis of many *Acharonim* that the relevant mental state that one must be in while doing the *mitzvah* should be *an occurrent and explicit one*.

There are, however, some Rabbis who hold that, at least in certain circumstances, even an *implicit* thought or intention might suffice. Thus, the *Peninei Halakha* suggests that

> Sometimes, one has implicit *kavanah* [intention], and that suffices *b'dieved* [post facto]. For instance, a person who comes to pray in a synagogue, and in his prayers he recites the *Shema* paragraph, even though he did not explicitly intend to perform the *mitzvah* of reciting *Shema*, he fulfilled his obligation. For if we were to ask him, "Why did you say *Shema*?" he would immediately answer, "To perform the *mitzvah*." Thus, in his recital he had implicit *kavanah* to fulfill his obligation. Similarly, someone who puts on *tefillin*, even though he didn't meditate on what he was doing, it is nonetheless

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[22] It should be clear, then, that my solution to the dilemma isn't a general one; it doesn't apply to the moral case, only to the Halakhic one. Nor is my solution available for a structurally similar dilemma to views in other domains, such as the legal one, that seem to require such an intention. For instance, according to American law, a will is legally valid only if the testator intended to produce a legally valid will, and therefore only if the testator believes that she will produce a legally valid will. And if American law requires a *de dicto* intention to produce a legally valid will, such a view will be vulnerable to the same dilemma. And my solution in terms of a make-belief, I take it, doesn't seem very promising in that legal case.

However, notice that, strictly speaking, I'm not suggesting a *solution* to the dilemma. Rather, I take the dilemma as a reason to reject the Halakhic view under discussion, and I suggest a different interpretation of this view that avoids the dilemma in the first place. If views in other domains are also vulnerable to the dilemma, I take this as a reason to reject these views. That being said, I'm only committed to this conditional, not to its antecedent. As I argued in §§3.1 and 4, there are specific reasons to take the dilemma more seriously in the Halakhic case, reasons that aren't necessarily relevant to the moral or the legal cases. For example, interpreting the relevant belief as reflexive isn't a viable option in the Halakhic case since it entails that Rabbis who believe that *mitzvot* don't require intention cannot consistently fulfill the *mitzvot*. But it's not clear whether the same considerations apply to the moral or the legal cases. And similarly for the distinction between *de dicto* and *de re* intention—a distinction that is clearly relevant for the moral case and possibly for the legal one. So, whether or not the dilemma arises for a structurally similar view to M is a question that should be answered in a case-by-case manner. And as far as I can tell, from these cases, it applies only to the Halakhic one. I thank an anonymous referee for pressing me to make my commitments here clearer.

clear that his only intention could have been to fulfill the *mitzvah*, and because implicit *kavanah* was present, he fulfilled his obligation. (*Peninei Halakha, ibid*)

And as the *Chayei Adam* by Rabbi Avraham Danzig (1748-1820) puts it, in such cases, "Even though he did not intend to fulfill his duty, he would fulfill it. For that is why he does this action—to fulfill his duty, though he does not intend [explicitly] to do so" (*Chayei Adam*, part A, 68).

Note first that such views—views according to which an implicit intention sometimes suffices for fulfilling a *mitzvah*—won't escape our dilemma. These views seem to require one to believe—even if only implicitly—that one's act is a *mitzvah*. Think, for instance, about the *Peninei Halakha*'s test for deciding (*post facto*) whether one intended to fulfill a *mitzvah* or not. If one had no belief—even an implicit one—that his reading the *Shema* was a *mitzvah*, it seems that his expected answer ('to perform the *mitzvah*') to the question 'why did you say *Shema*?' would be rather different.

The 'implicit intention' view, then, can't avoid the dilemma. But it does shed light upon what the proponents of the 'explicit intention' view are after. If what they're after is that one should do the act *because* it's a *mitzvah*, it's not clear what purpose is served by the emphasis on being in an occurrent and explicit mental state while doing the action. After all, to φ for the specific reason that *p*, one doesn't need to have an *explicit* belief that *p*. To borrow David Enoch's (2011, 226-7) example, if, while driving, I turned the steering wheel slightly to the right, I may do so *because* the road veers slightly to the right, even if I had no explicit belief or thought about the road's curves. All that's needed is an implicit belief that can be detected by employing something like the *Peninei Halakha's* test: if someone will ask me (soon enough) 'So, you noticed the road veering to the right?', if I'll answer 'Yes,' and if it will feel like bringing to full awareness what was there all along, rather than like an acquisition of a new belief, then we can say that I had that belief all along, even if only implicitly (see also Crimmins 1992). So, to perform an act *because* it's a *mitzvah*, one doesn't need to *explicitly* believe that one's act is a *mitzvah*; an implicit belief will suffice.

If this is correct, why do proponents of the 'explicit intention' view aren't satisfied with an implicit intention? This seems to suggest that what's important, according to these views, isn't *why* one performs a *mitzvah* but rather *how* one performs it. And this is exactly where Lebens's make-belief kicks in.

I suggest, then, that when the *Piskei Teshuvot*, for instance, says that "Before one begins doing the *mitzvah*, one must have the thought that 'I hereby intend in my action to fulfill *mitzvah* x [*plonit*] as our God commands us'" (*ibid*), we should understand it as saying that before one performs the act, one must *try to experience the world, and one's place in it as if* one's act fulfills a *mitzvah* as God commands.[23] The word 'intend' (*lekhaven*) here needn't be understood as having to do with one's goals, motives, or reasons for acting. Rather, it should be understood as saying something about 'paying close attention to' or 'concentrating on,' but in a sense which is much 'richer,' phenomenologically speaking, than mere intention. Of course, this is not to suggest that the *Piskei Teshuvot* (or the naïve religious Jew) don't also *believe* that their act is a *mitzvah*. Nor am I suggesting that (at least sometimes) they also do it *because* it's a *mitzvah*. This is only to suggest that this is not what Halakha (or God) requires as a necessary condition for performing a *mitzvah*. Under this interpretation, then, to fulfill a *mitzvah*, it doesn't matter

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[23] Similarly, when the *Peninei Halakha* says that "[A]s with all the *mitzvot*, we must have in mind that in performing this act, we are fulfilling Hashem's commandment," (*ibid)* we should understand this "having in mind" along the lines of this make-believing.

whether you do the act because it's a *mitzvah* nor that you believe that it's a *mitzvah*; what's important is that you'll *make-believe* that it's a *mitzvah*: that you'll try to experience the world and your place in it as if your act is a *mitzvah* and thus a fulfillment of God's commandment. And such a view isn't vulnerable to our dilemma since it doesn't require the worshiper to believe anything, let alone to believe that her act is a *mitzvah.*

But the task isn't finished yet. Recall that according to Lebens, the reason why the religious Jew is sometimes required to make-believe things that aren't true—even things one believes aren't true—is that such make-believing has *corrective effects*. In the case of Maimonides's *Laws of Repentance*, the corrective effects were to motivate one to do right and refrain from wrong; in the case of Rabbi Shapira's *Bnei Machshava Tova,* the corrective effects were to help one to engage with one's prayers. What are the corrective effects that justify make-believing things that aren't true in the case of the '*mitzvot* require intention' principle?

Moreover, notice that, given my interpretation of MB, providing such a justification is especially pressing. One might be worried that my suggestion renders the Halakhic view under discussion as encouraging a kind of fetishization of ritual objects (or practices). And such encouragement is objectionable, not only on intuitive grounds, but also on interpretative ones. After all, the view according to which '*mitzvot* require intention' is usually understood as precisely going against this kind of fetishization. So, interpreting this view as MB—as requiring one to make-believe that one's act in itself (regardless of one's mental states) is a *mitzvah*—is entirely unmotivated and so implausible.[24]

Perhaps the debate as to whether *mitzvot* require intention can be framed as a debate about whether the value of *mitzvot* lies in the acts themselves, or in one's engaging these acts as acts of worship. For example, when one puts on *tefillin*, is the religious value of the act—its being a *mitzvah*—something that lies in the act of putting *tefillin* on, or something that lies in one's putting them on as (or because it's) an act of *mitzvah*? Of course, the distinction here cannot be a simple distinction between acting and having an intention in mind; if one intends to worship God and to fulfill His commandment to put *tefillin* on but avoids putting them on, this will not suffice to fulfill the *mitzvah*. One must also *perform* the act in the right way. But as a psychological matter, I suspect that the worshiper who believes that *mitzvot* require intention may experience the *mitzvot merely as a means* for attaining what's 'really' important: his mental involvement in worshiping God.

Think about the worshiper who believes that *mitzvot don't* require intention. When engaging in an act of a *mitzvah*, this worshiper believes that what God requires is that she will *simply do this act*. She believes that the relevant act has some kind of "religious magic."[25] As the *Sefat Emet* (Rabbi Yehudah Aryeh Leib Alter, 1847-1905) in commentary to *Rosh Hashanah 28b* puts it, according to the '*mitzvot* don't require intention' view, "in every act of a mitzvah in itself, even without the intention of the doer, a high [i.e., a holly, divine] thing is made, since God hung supreme things on the acts of the inferiorities" (*Sefat Emet Likutim, Rosh Hashanah 28b*). If one believes that *mitzvot* don't require intention, then, one believes that one's act in itself—the act of putting on *tefillin*, blowing a *shofar*, etc.—has religious value regardless of one's intentions, beliefs, or motives. And this belief might help a person to engage seriously and devotedly with the prescribed details of the act. The worshiper who believes that *mitzvot* require intention, by contrast, might be led astray into caring less about the details of the act, and

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[24] Thanks to an anonymous referee for pressing me on this point.

[25] Compare Fritz Staal's claim in his study of ancient Indian Vedic rituals, that the ritual's significance lies in "what you do, not what you think, believe, or say" and that a ritual is a "pure activity without meaning or goal" (Staal 1979, 4-9; quoted in Strauch Schick 2017, 1, n. 1).

getting those details right, so long as the heart is in the right place. The worry emerges that the objective details of the commandments might come to seem redundant or unimportant.

I suggest, then, that the reason Halakha requires one to make-believe that one's act in itself, regardless of any mental state, has the religious value of being a *mitzvah* (understood as a fulfillment of God's commandment) is because this would help the worshiper to engage in the act *itself* as something of religious value. Even if *mitzvot* require intention (i.e., make-belief), one should make-believe that they don't; one should try to experience as if one's act in itself is something that fulfills God's commandment. While such a view is in tension with some of the halakhic texts, it sits well with the *Acharonim* who emphasize that the relevant mental state that's required for the act's being a *mitzvah* is an explicit one. Under this understanding, Halakha doesn't (or at least these specific views don't) care about the agent's motivations in performing a *mitzvah*, but rather about the way in which she experiences (or tries to experience) her act as something that, by itself, fulfills God's commandment.

So in a sense, MB can be seen as encouraging a kind of fetishization of ritual objects (or practices)—it says that one should try to experience as if one's act in itself (regardless of one's mental states) is a *mitzvah* and thus something that fulfills God's commandment. But this is not, I believe, necessarily an objectionable feature of the view. True, MB is committed to saying that one must try to experience as if one's act in itself is a *mitzvah*—and that it would be a *mitzvah* even if, for instance, one would perform that act for entirely secular reasons. But this kind of make-belief *does* have religious value. Its value lies in the corrective effects mentioned above: it can help the worshiper care more deeply about the objective details of the religious act. When one tries to experience, say, the act of putting on *tefillin* as something that—in itself—fulfills God's command, one is engaging, in a phenomenologically vivid manner, a picture of the world in which one's acts serve God. And engaging such a picture does seem like a religiously valuable thing. So even if this kind of make-believing encourages, in a sense, fetishization of ritual objects, *engaging* in such a fetishization is something of religious value; being in the state of make-believing that one's religious acts have religious value in themselves is in itself a form of worship. And if MB is a viable interpretation of the '*mitzvot* require intention' view, being in such a state is exactly what's required for successfully performing the *mitzvot*.

The traditional way of thinking about the underlying intuition behind the '*mitzvot* require intention' principle is as seeing the *mitzvot* (or a subset thereof) as things whose theological purpose is to serve as acts of compliance and obedience to God. The dilemma I've presented in this paper shows that there is something problematic with that conception. If my proposed view, MB, is a viable interpretation of the intention requirement, this suggests a different sort of worship that's required in performing the *mitzvot*: not a requirement to obey God, but rather to try to experience the world as if God requires one to do certain things. This, of course, is consistent with also *believing* that God requires one to perform these actions, and even with having a motivation to perform these actions *because* He requires them. But such a belief and motivation aren't, and shouldn't be, what Halakha (or God) mostly care about.[26]

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