Response to Rabbi Asher Benzion Buchman

By: MARC B. SHAPIRO

> "The errors of great men . . . are more fruitful than the truths of small men." – Nietzsche[1]

It is an honor that Rabbi Asher Benzion Buchman devoted almost fifty pages to reviewing my recent book, *Studies in Maimonides and His Interpreters*. In fact, Buchman reviewed only half of the book, which makes his effort all the more remarkable. It is very rare that an author has such a close reader, and I am thankful for this, even if the reader disagrees with so much I have written and isn't able to find even one positive thing to say about the book. The issues he raises are significant, as they speak to one of the most important aspects of both Torah study and Jewish intellectual history, namely, understanding the writings of Maimonides.

It is not necessary for me to engage in a page-by-page response to Buchman, as readers can judge for themselves which approach appeals to them and which they find more reasonable. The latter point is important, for what is at issue here is how to interpret the evidence. Buchman's efforts are designed to show that the very evidence I put forth can yield different conclusions. He argues his case with much conviction and I must thank him for correcting some careless errors of mine, for pointing out a few nuances that I missed, and for causing me to think again about some of my points, which no longer appear so certain after reading his critique.

Having said this, however, I stand by my major theses. I will use this opportunity to deal with some of the points Buchman makes where I think further discussion is warranted. I will also correct some errors in how Buchman has characterized what I have written.

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1 Walter Kaufmann, ed., *The Portable Nietzsche* (New York, 1976), p. 30.

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1. Buchman, p. 114, writes that my presentation of *Perush ha-Mishnah*, *Orlah* 2:1, is incorrect, in that I cite "Rambam as saying that he does not recall 'if' there is a scriptural connection in a particular case, whereas Rambam rather says that he does not recall 'what' the scriptural source is." The difference between the two formulations is quite minor, and I don't believe that Buchman's understanding is preferable to mine. Maimonides' words are (in Kafih's translation):

ואיני זוכר עתה בדברי חכמים אסמכתא שעליה הסמיכו דין זה.

2. Buchman, p. 115, states that I "mock" those who don't interpret Maimonides' words according to what Maimonides himself says. He later says, pp. 139 and 140, that I "ridicule" a certain approach (using this word three times), and that I cite the Chazon Ish as ridiculing similar approaches by R. Chaim Soloveitchik. He further states, p. 145, that my "real scorn is reserved for Brisk," and that I "ridicule" Brisk (p. 146). Buchman locates this scorn and ridicule in my categorization of Brisk as "ahistorical" in its approach.

I strongly reject Buchman's description of both my writing and that of the Chazon Ish. Readers should examine my words and determine if I have engaged in any such ridicule.[2] I—not to mention the Chazon Ish—have the greatest respect for all the traditional interpreters. If I suggested alternative approaches, that is all. There is no ridicule here. As for the "scorn" and "ridicule" supposedly seen in my categorizing the Brisk approach as "ahistorical," Buchman has misunderstood. The word "ahistorical" is not necessarily pejorative. There are different ways of approaching texts and, to give an example, much of modern literary analysis (e.g., New Criticism) has been ahistorical. I suggest that the same is true of some of modern rabbinic scholarship, in particular the approach of Brisk.[3]

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2 Buchman himself, p. 149, writes of "the folly of Chasam Sofer and Degel Reuven."

3 And not only Brisk—see R. Nahman Greenspan, *Pilpulah shel Torah* (London, 1935), pp. xvii-xx, who elaborates on what he regards as an essential element of Torah study, namely, explaining the approach (*shitah*) of earlier scholars in a manner that, though valid in and of itself, would have been foreign to these scholars. I sense that Buchman and many others don't grasp this point, and assume that for an interpretation to be valuable, not to mention "true," it has to be historically accurate in the sense that the original author intended it. In the interest of

Buchman, p. 146, quotes R. Jehiel Jacob Weinberg's letter in which he criticizes the Brisker approach. In referring to how R. Joseph B. Soloveitchik wrote about his uncle, R. Isaac Ze'ev, R. Weinberg categorizes the description as akin to how members of a כת (sect) write about their leaders. Buchman translates כת as "cult," which is incorrect and has a very bad connotation. Buchman then concludes: "So let's be quite clear: if we side with Rav Weinberg and Chazon Ish, the Rav is also delusional, and his Torah, I guess, would be (*chas v'shalom*) nonsense."

The only nonsense I see is this last sentence. Neither R. Weinberg nor the Chazon Ish would ever regard "Brisker Torah" as "nonsense." They had the greatest respect for R. Chaim and his achievements. Yet they also had a different approach, one that they thought was in line with Maimonides' original intent. To take their important criticisms of the Brisker approach and caricature them as Buchman has done is terribly irresponsible. Let us not forget that R. Weinberg thought that R. Chaim's interpretations were brilliant and exemplified Torah study at its highest level.[4] In his mind, this was quite apart from whether the interpretations reflected Maimonides' original intent.[5]

Buchman writes (p. 145 n. 140): "It is quite amazing that Chazon Ish should be his [i.e., Shapiro's] ally in accusations of being ahistorical. Even traditionalists know that it is the Chazon Ish who calls for halachah to be determined ahistorically, as is clear from his *Iggros*." Buchman is mixing apples and oranges. The fact that the Chazon Ish was not generally interested in utilizing new manuscripts of the Tal-

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space I will not elaborate any more on this here. In a future *Ḥakirah* article I hope to return to this topic, where I will cite many traditional sources to back up Greenspan's point mentioned at the beginning of this note.

4 In his letter to R. Mordechai Gifter, dated April 24, 1961, R. Weinberg expressed regret that he never troubled himself to make the acquaintance of R. Chaim. "Because of this I deprived myself of growth and lost something that can never be replaced."

5 In the Hebrew appendix to my book, I publish all relevant sections from R. Weinberg's letters. Thus, it is improper for Buchman, p. 146 n. 146, to state that in the English section of my book I "selectively" chose to quote some of what R. Weinberg said, implying that I was engaged in a form of censorship.

mud or newly printed *rishonim* has nothing to do with being ahistorical. Rather, it is related to his conception of how the halakhic tradition developed and what has been canonized. When it comes to determining halakhah, the Chazon Ish was certainly not ahistorical but strove to discover the original intent of the sources he analyzed.

Buchman writes (p. 141): "The *Briskers* are merely following the approach of their teacher—Rambam—and those trained to think this way are the most accurate interpreters of Rambam's intent." This is not a dispute that can be settled, and as the reader can see, my own position is in line with the Chazon Ish, R. Weinberg, and R. Kafih. They believed that R. Chaim's approach, however brilliant, did not reflect the historical Rambam.[6]

I think it is worthwhile to cite some of what R. Aharon Lichtenstein has to say in this regard. Certainly, R. Lichtenstein is an adherent of Brisk, and sees it as the highest level of Torah study. But he is also sensitive to the historical issue of whether the explanations offered on Maimonides actually reflect the "historical Maimonides." That is, are these answers what Maimonides had in mind, and is this a question that should even be a concern for us? He said as follows[7]:

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6 One observer has remarked that the Chazon Ish judged R. Chaim's interpretations of Maimonides "by the wrong criterion; he wanted to determine if they were true!" See Lawrence Kaplan, 'The Hazon Ish: Haredi Critic of Traditional Orthodoxy', in Jack Wertheimer (ed.), *The Uses of Tradition* (New York, 1992), p. 155 n. 33. By "true," this observer meant true to original intent. Of course, one shouldn't assume that Briskers (and this includes R. Chaim) believed that the only way to understand Maimonides was through the analytic approach. See e.g., R. Isser Zalman Meltzer's introduction to *Even ha-Azel*, vol. 3 (*Sefer Kinyan*; called to my attention by Rabbi Aharon Rakeffet): ואם אמנם דרך החדוש שיצא מזה תועלת למעיין הוא דוקא לנתח יסודות ההלכה ולהגדיר גדריה, שכן הורה לנו אדמו"ר גאון ישראל בשיעוריו כאשר יראה המעיין בספרו המאיר עינים "חדושי רבנו חיים הלוי", אבל לא בכל מקום אשר יקשו לנו בדברי הרמב"ם אפשר ליישב בדרך זה. הרבה פעמים יתכן שאין שם מקום להגדרות וחלוקים והבאור האמיתי יוצא מתוך עיון בהבנת הסוגיא ובבירור פירושי הראשונים וגם בזה דרושה התעמקות ועיון רב.

7 R. Lichtenstein's lecture was delivered in 1984 at the Bernard Revel Graduate School of Yeshiva University. Its title is "Torat Hesed and Torat Emet: Methodological Reflections." The passages cited here, which appear in the transcript made available after the lecture, differ

It may indeed perhaps be doubtful that in setting forth the Rambam's *shitah*… that the Rambam personally intended everything that R. Hayyim expounds by way of its explication. And yet that should not deter the exposition. The potential for the whole of R. Hayyim's book—as potential—is surely latent within the raw material of the *Yad ha-Hazakah,* although it may have taken a genius of R. Hayyim's stature to extract and elucidate it

That is all that need concern us. Perhaps we do not divine in psychological, subjective terms the Rambam's intention, but, on the other hand, neither are we studying ourselves. We are studying the texts, the concepts, the raw material to be found within the Rambam and mined therefrom. *Kol asher talmid atid le-hithadesh ne'emar al yedei Rabbenu Moshe ben Maimon.* Would the Rambam have recognized his own recast handiwork? Probably not.

[R. Lichtenstein then quotes the talmudic passage in *Menahot* 29b which describes how Moses could not fathom R. Akiva's method of expounding the Torah, and applies the lesson of this passage to Maimonides' works. He concludes:] *Hakhmei Yisrael,* too, have then their *Torat Emet*—that which is, as best as can be perceived, an accurate statement of their conscious and willed position—and their *Torat Hesed*—the increment they have contributed to the world of halakhah which can then lead its own life and be understood in its own terms, both as an independent entity and in relation to other halakhic elements.

With regard to practical halakhah, R. Lichtenstein stated:

If one indeed assumes that in learning *rishonim,* interpreting them, we can find content but not necessarily intent, this is well and good to the extent that we are simply trying to plumb the depths of Torah proper. However, the moment that, in dealing with *pesak,* we seek to invoke their authority and to insist that a particular point of view be adopted because the weight of the Rambam or the weight of the Rashba is behind it, then of course the element of intent—whether indeed this was the clearly stated and articulated position of the Rashba or the Rambam proper—becomes a far more critical and crucial consideration than when we simply are learning with excitement and passion in the confines of the *Beit Midrash.* That is a consideration which those who are concerned with *pesak* I think should bear in mind.

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from what is found in the published version. See *Leaves of Faith* (Jersey City, 2003), vol. 1, ch. 3.

Finally, let us turn to the Rav, R. Joseph B. Soloveitchik. Buchman, p. 146, criticizes me for not mentioning him, whom he describes as "the greatest proponent of this mode of study [i.e., Brisk] in the history of American Jewry and perhaps its greatest proponent in the twentieth century." Here is what the Rav said, as recorded in a student's notes:

> Mankind is changeable in its cognitive adventures, and to say that I understand Aristotle means in the tradition of Aristotle, which, of course, has been subject to change. In halacha there is a *masoret*, a tradition as to method, but if I give an interpretation to Maimonides, it does not necessarily mean that Maimonides meant just that. If measured by halachic standards it is correct. That suffices.[8]

3. What is the point of Buchman's comment, p. 119 n. 41: "Rav Chaim Soloveitchik, shlita, known to Dr. Shapiro as Prof. Hayyim Soloveitchik"? Is it to imply that I was being disrespectful in referring to Haym Soloveitchik by the title he is known by the world over? Speaking of titles, let me also note that on p. 126 n. 70, Buchman mistakenly turns R. Kalman Kahana into a professor.

4. In my book, p. 11, I quoted Maimonides' letter to the sages of Lunel in which he acknowledges that in old age he suffered from forgetfulness. I further wrote that, at least with regard to his later writings, Maimonides virtually invites us to answer perplexities by attributing them to forgetfulness and carelessness. Buchman states (pp. 121-122): "He does not, however, tell us why Rambam would mention such a thing in the context of explaining why there are mistakes in what he wrote in *Mishneh Torah*, which was not written in his old age. This is one of the characteristically difficult statements that is found throughout this letter that caused R. Kappach to proclaim it a forgery."

Buchman asks a good question. Here is the passage in Maimonides' letter (Sheilat, ed. *Iggerot ha-Rambam*, vol. 2, p. 503).

> ושגיאות מי יבין, והשכחה מצויה בכל, וכל שכן בזקנים. ומפני כל אלו הסבות ראוי לחפש בדברי ולבדק אחרי, ואל יאמר הקורא בחבורי: כי מה האדם שיבוא אחרי המלך, אלא הרי הרשיתיו, ויאמר המלך יבוא.

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[8] See daattorah.blogspot.com for Dec. 16, 2008. Since this is from a student's notes, one should not assume that it is a verbatim transcript.

As we can see, Maimonides is saying a couple of things. He first acknowledges the possibility of error and then states that everyone forgets things, particularly the elderly. Why include this if the *Mishneh Torah* was not written in his old age? I think a plausible answer is that since we know that he continued to revise his Code, it was not in his mind a work written in his earlier years. As I noted in my book, it was a continual work in progress, until the day he died. So when, as an older man, he wrote the letter to Lunel, he was speaking about the *Mishneh Torah* and himself in the present tense.

5. Buchman, p. 122 n. 53, wonders why I mention a case where Maimonides "seemingly errs" if there is a scholar who disagrees. This is hardly a criticism, especially since it is R. Yitzhak Sheilat whom I cite in support of my statement. For interested readers, here is what Sheilat, *Iggerot ha-Rambam*, vol. 1, p. 287 n. 18, writes:

> ונראה כי הרמב"ם שגג בזה ושכח שהלכה זו מופיעה בשני מקומות בספרו . . . וכבר כתב הרמב"ם לעיל (רפו, 11) שכל אדם עלול לשכחה ולטעות.

6. In my book I gave many examples of Maimonides misquoting verses from the Pentateuch and the rest of the Bible, which I attributed to Maimonides citing from memory. It is not uncommon for medieval writers or even modern ones to misquote verses for this very reason. I don't know why Buchman thinks Maimonides should be immune to this.

Buchman believes that it is more plausible to assume that Maimonides had alternate versions of these biblical texts, and this explains the misquotations. This is an untenable suggestion. To begin with, many of the misquotations are combinations of verses or Maimonides citing the wrong verse. As for the other misquotations, where only a word or two is different, in many of these cases Maimonides cites the verse accurately elsewhere, even in the same book. Furthermore, when it comes to the *Mishneh Torah* we know that he had access to the Ben Asher text, which he examined carefully with regard to the Pentateuch.[9] We also know that the letters of the Ben

9 See *Sefer Torah* 8:4.

Asher text are identical to the current Yemenite text.[10] Thus, it is impossible to assume that Maimonides' misquotations of the Pentateuch in the *Mishneh Torah* are due to his having had different manuscripts.

Buchman also claims that I assume that Maimonides never corrected these errors, as we have no evidence of this in any manuscripts. For argument's sake, let's assume that he did correct them. Why is this significant? I, too, point to numerous corrections that Maimonides made. Had he lived longer, he no doubt would have made more corrections, either of errors he noted or of those that were called to his attention. Yet this does not take away from my basic point that Maimonides cited texts from memory, which led to certain errors.

I agree with Buchman that there are times when mistakes come from scribes, which is why I made use of the evidence of multiple good manuscripts. While perhaps some of the errors that appear in these manuscripts can be attributed to scribes, it strains credulity to attribute a significant number of them to an erring copyist. This is quite apart from the fact that in the *Commentary on the Mishnah* and the *Guide* we have misquotations of biblical verses from Maimonides' own hand.

Buchman, p. 127, claims that the misquotations in both Maimonides and the Talmud may be purposeful, due to a halakhic issue. To this I would simply say that well over ninety percent of the verses Maimonides quotes are cited accurately. If in all these many hundreds of cases Maimonides sees no reason to purposely cite them inaccurately, it strains credulity to assume that he would do so at other times.

In my book I cited some examples where the Talmud misquotes a verse and Maimonides does the same. I assume that Maimonides cited the verse from the Talmud without actually looking it up. Buchman assumes that in these few cases there was a reason the Talmud purposely altered the verse, but not in the thousands of other times that verses are quoted in rabbinic literature. Buchman asks: "Is it possible that at times Rambam only paraphrased a pasuk to avoid

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10 See *Nusah ha-Torah ba-Keter Aram Tzovah: Edut Hadashah* (Ramat Gan, 1993), pp. 67ff. In five places Ben Asher and the Yemenite text differ with regard to the proper separation of words.

the halachic problem?" Almost none of the mistakes I noted would fall into the category of a paraphrase. Even for the few that would, the problem is again obvious: If there is some requirement to paraphrase, how come Maimonides doesn't do so the many hundreds of other times he cites verses?

As for the halakhic issue of writing down verses from the Bible, there are ways around this that were utilized by Maimonides. The lines he placed on top of words are clearly *sirtut*. At other times he would place dots over the words. This is noted by R. Sheilat, in the introduction to his edition of *Avot* (Maaleh Adumim, 2004), p. 12.[11] This source is referred to by Buchman, but Buchman does not quote the following sentence of R. Sheilat. "Maimonides quoted all the verses from memory, and at times the quotation is not exact." Is Buchman prepared to discount R. Sheilat as just another "academic"?

7. Buchman, p. 128, deals with my assertion that Maimonides erred in *Guide* 3:40 when he said that the value of a man is sixty *shekalim*, rather than 50.[12] He states: "Obviously Rambam was approximating and had written 50 *shekalim* while 30 is approximately half of this; but an errant scribe quick to use his mathematical knowledge substituted 60 so the half should be exact. Anyone who has gotten to know Rambam, at least a little, should know that he did not make this mistake."

Buchman is not the first to assert that what we have here is a scribal mistake.[13] There are also other attempted solutions to this problem that don't assume a scribal error. In my book I cited R. Kook in this regard, and let me now make reference to some other

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11 See also R. Kafih's commentary to *Sefer Torah* 7:16.

12 In my book I noted that Maimonides cites the correct amount in *Arakhim ve-Haramim* 1:3, but I neglected to also refer to *Commentary on the Mishnah, Arakhin* 2:1.

13 See Isaac Satanov, *Givat ha-Moreh* (Vienna, 1828), ad loc. (the first volume of this commentary is by Solomon Maimon and the latter two by Satanov); R. Wolf Heidenheim's note in R. Eliezer ben Nathan, *Ma'amar ha-Sekhel* (Vienna, 1816), p. 52b; Isaac Baer Levinsohn, *Bikurei Ribal* (Warsaw, 1900), pp. 65-66; Israel Yafeh in A. Y. Weisenfeld, *Halifat Mikhtavim* (Cracow, 1900), p. 75; R. Isaac Simhah Hurewitz, *Sefer ha-Mitzvot* (Jerusalem, 1931), p. 33a; R. Barukh Halevi Epstein, *Torah Temimah*, Lev. 27:3.

sources for those who want to explore the issue further.[14] What I want to focus on, however, is Buchman's blanket statement: "Anyone who has gotten to know Rambam, at least a little, should know that he did not make this mistake." As we shall now see, some outstanding students of Rambam, who knew him very well, didn't share Buchman's assumption.

R. Joseph Kafih is described by Buchman, p. 151, as one "who spent countless hours studying every word that Rambam ever wrote." Regarding the problem we are discussing, R. Kafih writes, in his commentary to the *Guide*: ואפשר שהיתה זו שגיאת שגרה שבעל פה.

It is not just R. Kafih who feels this way. Another figure who knows the Rambam very well is the great R. Meir Mazuz. He states plainly that Maimonides erred in this example.[15] He also describes how this error came about: Lev. 27:3 reads מן עשרים שנה ועד בן ששים שנה והיה ערכך חמשים שקל כסף. As he explains, Maimonides confused the two numbers quoted in the verse, and substituted sixty for fifty. Rather than having this mistake lower our estimation of Maimonides, R. Mazuz agrees with the quote of Nietzsche that I mentioned at the beginning of this article:

> לא היה רבינו ז"ל ראוי לאותה טעות אלא ללמד מוסר גדול לדורות הבאים שלא יאמין אדם לזכרונו בשום אופן עד שיפתח את הספר, ואותיות מחכימות.

As to what troubles Buchman, namely, how Maimonides could be confused about a biblical verse, R. Mazuz cites *Talmud Torah* 1:12, where Maimonides states: "After one has become proficient and no longer needs to learn the Written Law . . . he should, at fixed times, read the Written Law and the traditional dicta . . . and should devote all his days exclusively to the study of Talmud according to his breadth of mind and maturity of intellect." In other words, Maimon-

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[14] See R. Dov Nahman Horowitz, *Ḥiddushei Bar Nahmani* (Petrokov, 1914), vol. 1 no. 5; R. Abraham Reznik in *Ha-Yehudi* (Av Elul 5696), pp. 215-216 and (Tevet 5697), pp. 66-69; R. Shmuel Toledano, *Dibur u-Maḥashavah* (Jerusalem, 2006), vol. 2, p. 220-221: R. Jonathan Simhah Blass, "'Kofer ha-Avadim' (*Hilkhot Nizkei Mamon* 11:1) Sheloshim Shekalim," *Mesorah le-Yosef* 5 (2008), pp. 107-119. Michael Schwartz, in his edition of the *Guide*, makes reference to a couple of other articles.

[15] *Or Torah* (Tishrei 5751), p. 13.

ides was not engaged in constantly reviewing the Bible. As such, it is understandable that he would occasionally misremember a verse. As the leading Sephardic Rosh Yeshiva in Israel, R. Mazuz falls squarely into the category of a traditional interpreter. Yet one of the themes of my book is that many "academic" interpretations can also be found among traditional interpreters.

R. Zechariah Isaiah Yolles also knew the Rambam very well. Yet in a responsum he too states that Maimonides erred in the case of *Guide* 3:40.[16] As to how Maimonides could make such an error, he writes:

> ומי לנו גדול מרבינו משה בר מיימוני וגם עליו אמר דהע"ה שגיאות מי יבין . . . מזה נראה בעליל שאף מאור עינינו מבחר קדמונינו נפל ברשת השכחה.

Yolles gives another example of what he regards as an error by Maimonides. *Sefer Torah* 7:6 reads:

> נזדמנה לו בסוף השיטה תיבה בת עשר אותיות או פחות או יתר.

Yet as Yolles points out, contrary to what Maimonides writes, there is no word in the Torah with more than ten letters.[17]

It could be that I am mistaken in the example from *Guide* 3:40, as well as in some other examples. If so, I am in good company. The sources just cited should suffice to show that my approach in this area is not exclusively an academic perspective. It is also not the case that "anyone who has gotten to know Rambam, at least a little," will automatically have a different outlook.

Needless to say, attributing error to Maimonides is not something one does lightly. Only when all other avenues are exhausted should it

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16 *Zekher Yeshayahu* (Vilna, 1882), vol. 2, no. 28. For a Haskalah figure who also shared this belief, see Isaac Samuel Reggio, *Ha-Torah ve-ha-Philosophia* (Vienna, 1827), p. 99.

17 The one word with ten letters is ובמשארותיך, found in Ex. 7:28. Levinsohn, *Bikurei Ribal,* p. 65, claims that Maimonides had in mind the eleven letter word והאחשדרפנים in Esther 9:3, since the Scroll of Esther has the same laws as a Torah scroll. Regarding this latter point, see *Hagahot Maimoniyot, Megillah* 2:11. Yet this is very far-fetched as Maimonides is speaking here specifically about the laws of a Torah scroll. (Levinsohn was unaware that there are two other biblical words with eleven letters: Ez. 16:47: וכתועבותיהן, and Ez. 20:44: וכעלילותיכם.)

even be considered. Buchman, p. 110, refers to my citation of R. Jacob Emden who pointed to a supposed mistake of Maimonides. Yet it was actually Emden who erred. This should be a lesson to us all. In order to further illustrate this, let me note that elsewhere Emden again claims to have identified a mistake (שיבוש) of Maimonides.[18] As before, it is Emden who errs.[19]

8. Buchman, p. 129, is correct that I mistakenly listed a halakhah in *Hilkhot Talmud Torah* before a halakhah in *Hilkhot Deot*. In reality, the order should be reversed. I thank him for pointing out this error, which only shows that we all make careless mistakes.

9. Buchman, p. 134, claims that I create straw-traditionalists who are opposed to any flexibility about changing the text of the *Mishneh Torah*. Yet on the page he cites all I say is that "before the new editions of the last generation, these commentators were forced to work with faulty Maimonidean texts." On p. 57 n. 239 I give plenty of examples of traditionalists who changed texts without any manuscript support.

Buchman, p. 135, criticizes me as follows: "Suggesting changes has always been a common traditionalist option, and Dr. Shapiro's limitation of so doing to texts supported by a manuscript is not reasonable." Here there is a basic difference between my outlook and that of Buchman. In my opinion, one is best served in this area with a conservative approach. There are many examples of scholars suggesting emendations without manuscript support that are without merit. There are also times when brilliant emendations are later confirmed by manuscripts, so there is no hard and fast rule. Yet suggesting an alternate reading should always be a last resort, if at all.

10. Buchman, p. 134 n. 107, states that he could not find the Radbaz I cite on p. 71 n. 289. As I indicated, it is in vol. 7 no. 25 (p. 11a). The Radbaz writes:

> והוי יודע שאפי' אם תרצה לומר שהתשובה ההיא חלוקה על הפסק על התשובה יש לנו לסמוך שהיא הלכה למעשה.

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18 Note to *Shemoneh Perakim*, ch. 8 n. 1.

19 In fact, the error is so egregious that a hagiographer might be inclined to attribute it to a "mistaken student." See R. Alter Hilvitz, "Mi-Beurei ha-Rambam le-Mikraot," *Sinai* 33 (1953), p. 249.

11. Buchman writes (p. 144): "[I]t is perhaps a lack of sufficient sensitivity to the nature of *Mishneh Torah* that causes academics to see contradictions between *teshuvos* and *Mishneh Torah* where there are none." As an example he refers to what I identified as a contradiction, namely, Maimonides' statement in *Sefer Torah* 10:1, that one cannot publicly read from a Sefer Torah that is *pasul*. In his responsum, ed. Blau no. 294, Maimonides says that one may do so even with a berakhah. Buchman quotes the *Kesef Mishneh*'s explanation of this contradiction.

I do not believe that the *Kesef Mishneh*'s explanation can be harmonized with the words of Maimonides in his responsum. According to the responsum, if you don't have a kosher Sefer Torah you can make a blessing on a non-kosher Torah. This does not appear to be what Maimonides holds in the *Mishneh Torah*.

Yet let us assume for the sake of argument that *Kesef Mishneh* is correct. Does this justify Buchman's assertion that anyone who reads the *Mishneh Torah* differently than the *Kesef Mishneh* is lacking "serious sensitivity"? The Rashba, quoted by the *Kesef Mishneh*, was one of those who saw a real contradiction here, and he posited that Maimonides changed his mind. The same opinion was expressed by the fifteenth-century Yemenite scholar R. Saadiah ben David Adani.[20] Buchman may prefer the *Kesef Mishneh*'s approach, but I don't see why that should bind me or anyone else.

R. Kafih also saw a contradiction in that unlike the *Mishneh Torah*, the responsum permits a blessing on a *pasul* Sefer Torah if that is all you have. This is a very different circumstance than that of one who in the middle of the obligatory reading or afterwards finds that the Torah is *pasul*. Faced with this contradiction, R. Kafih concludes (Commentary to *Hilkhot Sefer Torah* 10:1):

> וברור כי למעשה אין לסמוך על תשובה זו, אלא כפשט דבריו כחבורו [צ"ל בחבורו].

In fact, we don't merely have a contradiction between the *Mishneh Torah* and responsum no. 294. This responsum is also contradicted by two other responsa, nos. 162 and 266. The *Kesef Mishneh* was unaware

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20 See R. Yitzhak Ratsabi, ed. *Piskei Maharitz* (Bnei Brak, 1981), vol. 2, p. 473.

of these two responsa, and I believe that these latter sources show that his interpretation of the *Mishneh Torah* is incorrect. What we are left with, therefore, is what the Rashba assumed, namely, a contradiction between an early responsum and the later *Mishneh Torah*. The Rashba didn't know about these other two responsa, but he would have seen them as proving his point that Maimonides abandoned his earlier position. After considering the evidence, R. David Yosef[21] writes:

> ותשובה זו היא חיזוק לדברי הרשב"א שרבינו חזר בו בזה . . . וכל התירוצים שתירצו המפרשים שהובאו שם, נדחים מפי מה שכתב רבינו עצמו כאן בתשובה, כי מה שהבאנו שם בשם מרן הכסף משנה, שתירץ לחלק בין לכתחלה ובין דיעבד, מתשובה זו משמע שאין לחלק כן, דאם כן היה לו לרבינו לכתוב חילוק זה, דהיינו דוקא לכתחלה, ולא לסתום דבריו בין בחיבורו ובין בשתי תשובות.

Buchman is entitled to disagree with R. Yosef. However, I don't think he can continue to say that the *Kesef Mishneh* provides the only proper explanation and those who don't see it lack "sufficient sensitivity to the nature of *Mishneh Torah*." Certainly, he would agree that Rashba, R. Saadiah ben David, R. Kafih, and R. Yosef have that sensitivity, even if I do not.

12. Buchman is correct, p. 144, that R. Meir Simḥah and the Rogochover would use the *Guide* to explain difficulties in the *Mishneh Torah*. Yet this doesn't change the fact that they were unusual in this regard, and most traditional commentators did not make use of all of Maimonides' writings when dealing with the *Mishneh Torah*. Here is an example: There is a wide-ranging dispute as to whether Maimonides holds that *tza'ar baalei ḥayyim* is a Torah prohibition or a rabbinic one. As far as I know, only R. Meir Simḥah, *Or Sameaḥ, Shabbat* 25:26, cites *Guide* 3:17 where Maimonides adopts the view that it is a Torah prohibition.[22] This appears to conflict with what Maimonides implies in the *Mishneh Torah*, and R. Meir Simḥah offers a solution.

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21 Ed. Maimonides, *Pe'er ha-Dor* (Jerusalem, 1984), p. 217.

22 Maimonides also advocates this position in his *Commentary on the Mishnah, Betzah* 3:4.

13. Buchman, p. 149 n. 153, questions how reliable R. Moshe Sternbuch is in reporting a teaching of R. Chaim Soloveitchik. In this case, R. Sternbuch tells us that he is citing the notes of R. Michel Shurkin, which presumably means that the information comes from R. Joseph B. Soloveitchik.

14. Buchman, p. 149, notes that the language of *Penei Yehoshua* that I quote differs from what he found. I was surprised to find that this is so. I cited from the Bar Ilan database, which uses a 1998 edition of the *Penei Yehoshua*. This edition has material that is not found in the standard photo-offsets of the original European printing.

15. Finally, let us now turn to the responsa to the sages of Lunel. There is no need to rehash the arguments here. Let me just repeat that the academic community and the traditionalist community are in agreement that the responsa are authentic. Since there is no "smoking gun" in the responsa, I believe that it is a fool's errand to argue that Maimonides couldn't have written them. We have too many examples where people assumed that an author couldn't have written something, only to find certain proof to the contrary. What could be more certain than that Maimonides' contemporaries knew these responsa and Maimonides' son cites them?

Nevertheless, anything is possible. If Buchman, following the lead of R. Kafih, is able to cast doubt on these responsa, it would be a great scholarly achievement. There are plenty of texts that were once regarded as authentic, and now are thought, or even known, to be otherwise. It is also true that traditionalists have always found these responsa the most problematic written by Maimonides. Here, for example, is what R. Ḥayyim Ben Attar[23] says about one of them:

> שאלה ותשובה זו לית נגר דיפרקינה כי מלבד דהתשובה מוסתרת מפסקי הרמב"ם עוד לה דמוסתרת רישא לסיפא.

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[23] *Rishon le-Tziyon* (Constantinople, 1750), *Berakhot* 12a. Another source I neglected to note in my book is *Kesef Mishneh, Keriat Shema* 1:8, where after discussing at length one of the responsa to Lunel, R. Joseph Karo concludes: אין מקום לתשו' זו . . . ולכן אני אומר כי השאלה הזו גם תשובתה דבריהם סתומים וחתומים. (Chaim Landerer called this to my attention.)

However, it is incorrect for Buchman, pp. 151-152, to state that R. Kafih's view that the responsa to Lunel are forgeries "is backed by Rav Chaim Brisker, the Gra, [and] the Chasam Sofer." I referred to all of these figures in my book and none of them thought that the responsa are forgeries. On the contrary, they regarded them as authentic responsa, albeit ones that were not reflective of Maimonides' greatness.

Thus, the Vilna Gaon was able to say that Maimonides' original formulation was correct, rather than what he wrote in his responsum to Lunel. The Ḥatam Sofer is reported to have said that, unlike the *Mishneh Torah*, the responsa to Lunel (and the *Guide*[24]) were not written with *ruaḥ ha-kodesh*. We are also told that R. Chaim Soloveitchik did not "like" these responsa. But all this is far removed from saying that they are forgeries. I am certain that had these figures seen evidence that the responsa to Lunel are not authentic, they would have latched onto it. It would have confirmed their suspicion that in these responsa "Rambam was no longer Rambam." Yet this never happened. ☙

24 Regarding the *Guide*, see *Ḥatam Sofer: Derashot* (Jerusalem, 1989), vol. 2, p. 398a, where he refers to something Maimonides says in this book as הבל.