

## ***Mishneh Torah's Structure and its Meaning: A Response to Prof. Lawrence Kaplan***

**By: DAVID GILLIS**

In *Reading Maimonides' Mishneh Torah*<sup>1</sup> I assert that Maimonides based the *Mishneh Torah's* 14-book structure on his cosmology. I explain how the cosmic form is an artistic device, a way of representing the work's philosophical dimension.

Lawrence Kaplan expresses reservations about this. Referring to his analyses of the introduction to *The Book of the Commandments* and the introduction to *Mishneh Torah* itself, and to a Geniza fragment from a draft of the *Mishneh Torah* indicating that the work's structure went through changes, he writes, 'I believe that the facts I have brought to light, namely, that 1) the division of the *Mishneh Torah* into books was, to begin with, not part of Maimonides' scheme of classification, and 2) that even when Maimonides decided to divide the *Mishneh Torah* into books, the division into exactly fourteen books in their current sequence was not fixed in stone, tend to undercut Gillis' provocative claim. But this matter requires a separate discussion.'<sup>2</sup>

I thank Prof. Kaplan for inviting a response, and for stimulating further thought about my own thesis. I do not believe, however, that he has raised a valid objection. My rebuttal is threefold: 1) My thesis stands or falls by its capacity to explain the form of the *Mishneh Torah* as we have it. That is not affected by such factors as when Maimonides devised the form or how he may have altered it in the course of composition. 2) What

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<sup>1</sup> Oxford, Littman Library of Jewish Civilization, 2015 (henceforth *Reading*).

<sup>2</sup> 'Further Reflections on Classification of Mishneh Torah: Real Answers to Real Problems', *Hakirah*, 19 (2015), 29–70, note 31.

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Kaplan presents as facts supposedly demonstrating that the book structure was not central to Maimonides' thinking are not facts but his interpretations of certain texts. There are good grounds for rejecting these interpretations. 3) The textual evidence itself, insofar as it provides clues to the evolution of the *Mishneh Torah's* form, far from undercutting my claim, actually supports it.

Let me first set out what is at stake. The significance of the *Mishneh Torah's* form is that at the same time as it tells us how to perform the 613 commandments, it also conveys the commandments' idea or purpose. Maimonides views the commandments as designed to perfect human beings. Human perfection consists of moral perfection, which is the imitation of God, and intellectual perfection, which is the knowledge of God. God cannot be known as he really is in himself, much less imitated. All we can know, and all we can imitate, is his creation. We should become microcosms, governing ourselves as God governs his perfect world.<sup>3</sup> But Maimonides holds that moral perfection is a necessary preparation for intellectual perfection. This creates a bind, because if moral perfection comes first, we are in the difficult position of having to imitate God's creation when we cannot yet understand it. The commandments are therefore an inestimable gift. They translate the laws by which God governs the world into laws of human behavior, mentoring us towards fulfillment of our microcosmic potential. The commandments also put us in mind of correct doctrines. Although intellectual perfection is ultimately beyond their scope, it represents their overarching purpose.<sup>4</sup> Those who observe the commandments with that purpose in mind are privileged with a high road to perfection.

The *Mishneh Torah's* form symbolizes this. It is itself a microcosm, an imitation of the workings of nature. The basic feature in this respect is the 14-book structure, to which the work itself provides the key. Its first section, 'Laws of the Foundations of the Torah' (*Hilkhot Yesodei Hatorah*), describes the ten orders of angels—nine of which control the heavenly spheres while the tenth projects form onto earthly matter—and the four elements of matter itself. In the *Mishneh Torah's* structure, the first ten books, on commandments *bein adam la-makom* (between human beings and God), correspond to the ten orders of angels. Both the angels and the commandments, loosely speaking, mediate between God and the world.

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<sup>3</sup> See *The Guide of the Perplexed*, i. 72 (pp. 184–94). References are to *The Guide of the Perplexed* tr. Shlomo Pines (Chicago, 1965) (henceforth *Guide*). In chapter 1 of *Reading*, I suggest that, by means of symbolic structure, the idea of human beings as microcosms is introduced into the *Mishneh Torah* as well.

<sup>4</sup> See *Guide* iii. 28 (p. 512) and iii. 52 (p. 630).

The last four books, on commandments *bein adam le-havero* (social commandments), which concern material affairs, correspond to the four elements. The implication is that the commandments shape human beings according to the divinely instituted cosmic order, so that their intellects will hold sway over their material appetites and desires, making them receptive to the understanding of that order.

The acquisition of individual intellectual and moral perfection is the province of books 1 to 10 of the *Mishneh Torah*. Books 11 to 14, on the commandments *bein adam le-havero*, are about the application of these perfections to social interactions and the body politic (just as the movements of the spheres influence the behavior of the elements). This process culminates in the advent of the messiah, and a political order that facilitates the free pursuit of the knowledge of God.

That, in barest outline, is what *Mishneh Torah*'s cosmic form represents. Fully expounded, the cosmic model explains not only the number of the *Mishneh Torah*'s books, but also their sequence,<sup>5</sup> and much of what happens within them as well; it incidentally solves the conundrum of the

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<sup>5</sup> R. Asher Benzion Buchman has commented illuminatingly on the arrangement of the *Mishneh Torah*, and of the Mishnah as well, in 'The Order of the Books of the *Mishneh Torah*' (Heb.) *Hakirah*, 18 (2014). On the whole, I find his more homiletical approach not incompatible with my own formal approach. We at least agree that the arrangement deserves attention. Rabbi Buchman has also written on the artistic/poetic aspect of the *Mishneh Torah*: 'Mishneh Torah: Science and Art,' *Hakirah*, 9 (2010), 199–220. On the *Mishneh Torah*'s structure, see also: Berman, Lawrence V., 'The Structure of the Commandments of the Torah in the Thought of Maimonides,' in S. Stein and R. Loewe (eds.) *Studies in Jewish Religious and Intellectual History in Honor of Alexander Altman* (Tucaloosa, Ala., 1979), 51–66; Cohen, Boaz, 'The Classification of the Law in the Mishneh Torah,' *Jewish Quarterly Review*, 25 (1935), 519–40; Hadad, Eliezer, *The Torah and Nature in Maimonides' Writings* [Hatorah ve-ha-teva be-khitvei ha-Rambam] (Jerusalem, 2011); Herzog, Isaac Halevi, 'The Order of the Books in Maimonides' *Mishneh Torah*' (Heb.), in J.L. Fishman (ed.), Rabbi Moses Maimonides [Rabenu Mosheh ben Maimon], ii, (Jerusalem, 1935), 257–64; Tabory, Joseph, 'The Structure of the Mishnah versus the Structure of *Mishneh Torah*' (Heb.), in Uri Ehrlich, Howard Kreisel, and Daniel J. Lasker (eds.), *By the Well: Studies in Jewish Philosophy and Halakic Thought Presented to Gerald J. Blidstein* [Al pi habe'er: mehkarim behagut yehudit u-ve-mahshavat hahalakhah mugashim le-Ya'akov Blidstein] (Beersheva, 2008), 675–90; Ziemlich, Bernhard, 'Plan und Anlage des Mische Thora,' in W. Bacher, M. Brann, and D. Simonsen (eds.), *Moses ben Maimon, sein Leben, seine Werke und sein Einfluss*, I (Leipzig, 1908), 248–318. Interestingly, Isadore Twersky, in his *Introduction to the Code of Maimonides (Mishneh Torah)* (New Haven, 1980), offers no general theory about the *Mishneh Torah*'s structure.

number fourteen as a motif in Maimonides' works—its cosmic significance is not confined to the *Mishneh Torah*;<sup>6</sup> it resolves difficulties between the *Mishneh Torah* and the *Guide of the Perplexed*, demonstrating that ideas in the latter are reflected in the former's structures, and thereby uniting Maimonides the rabbi and Maimonides the philosopher; it coordinates the *Mishneh Torah*'s details with its premise that a human being's purpose is to know God; and it explains the numinous quality of the *Mishneh Torah* that many have sensed, giving us a work of art of immense intellectual and spiritual power: my ultimate claim is that Maimonides designed his code to be itself a means of conveying the knowledge of God.

The division of the *Mishneh Torah* into fourteen books is thus the key to its full meaning.

As stated at the outset, for the purposes of this claim it does not matter when or how Maimonides arrived at this division. It simply does not follow that because a particular feature was not part of the original concept of a work it must be somehow inessential. Therefore, even if Kaplan is right that 'the division of the *Mishneh Torah* into books was, to begin with, not part of Maimonides' scheme of classification' (a claim that in any case I consider unproven), in interpreting the *Mishneh Torah* in its final form, the book structure must be given its full due.<sup>7</sup> The cosmic model, arising from within the work itself, explains that structure so well, and makes so much fall into place, that it itself establishes the books' significance. The model could still be wrong, but the 14-book structure does not need to have been 'fixed in stone' from the beginning for it to be right. In my book, I rather stress the fluidity of Maimonides' approach to schematizing the commandments. He arranged them in different ways according to his different purposes in different works—although the constancy of the number 14 in this respect is another indication that the number of the *Mishneh Torah*'s books is no accident. At any rate, a process of development as Maimonides strove to adapt an arrangement of the commandments to his purposes in the *Mishneh Torah* should not be surprising, and in itself strongly suggests that the structure mattered to him. In short, the explanatory power of my thesis is demonstrated, and is not diminished by any facts that Kaplan has brought to light.

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<sup>6</sup> *The Treatise on Logic* has fourteen sections; the introduction to *The Book of the Commandments* gives fourteen criteria for determining which imperatives in the Torah count among the canonical number 613; in part iii of the *Guide of the Perplexed*, the commandments are divided into fourteen classes. On fourteen as a signature number in Maimonides' works, see *Reading* pp. 192–4 and 294–5.

<sup>7</sup> Although Maimonides constantly revised details of the *Mishneh Torah* after it was published, I know of no evidence that he ever had second thoughts, post-publication, about its structure.

I will nevertheless deal with those facts, which as mentioned are really interpretations, in order to show how the underlying evidence tends to confirm my thesis.

### **The Book of the Commandments**

In the introduction to *The Book of the Commandments*, where Maimonides discusses his projected code, he states that he will arrange it according to topics, the *halakhot*,<sup>8</sup> and does not mention books. Kaplan concludes from this that the division into books was not at first part of Maimonides' scheme of classification.

This is an argument from silence. As such, it certainly falls short of being a fact. Moreover, the silence is understandable. Maimonides is concerned to describe how the construction of his code will be akin to that of the Mishnah and will differ from that of *The Book of the Commandments* itself. Instead of discussing the 613 commandments one by one, he will group them under topics, which he will call *halakhot* (Kaplan terms them 'units,' which I shall adopt), equivalent to the *masekhtot* (tractates) of the Mishnah. Whether or not they were conceived of at this stage, the books are not relevant to the point being made, and no conclusion can be drawn about the relative importance of books and units. The attempt to do so appears to rest on a misconception, a category mistake. The books of the *Mishneh Torah* are not simply collections of units under broader topics. They have an extra dimension, and represent a different kind of division. In effect, the *Mishneh Torah* has two schemes of classification.

It was indicated at the outset that Maimonides had two aims in composing the *Mishneh Torah*: to provide a practical code of law, and to convey his philosophy of the commandments. Broadly speaking, the unit arrangement serves the first aim, and the book arrangement serves the second.

As we have seen, in Maimonides' view, individually and collectively, the commandments intellectualize experience, and thereby direct a person towards the knowledge of God. Kaplan calls them principles of organization, but they are not *the* principle of organization in the *Mishneh Torah*. The units disrupt the principle: some cover one commandment, some cover several, some cover only rabbinic commandments, and some cover no commandments at all.<sup>9</sup> Sometimes the material to do with a single

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<sup>8</sup> That is the groupings of *halakhot*, as in *Hilkhot Yesodei Ha-Torah* and so on, not the individual *halakhot ketanot* (paragraphs).

<sup>9</sup> Prof. Kaplan has kindly pointed out to me that there are four of these: 'Laws of Utensils' (*Hilkhot Kelim*), 'Laws of Acquisition and Gifts' (*Hilkhot Zekhiyah u-Matanah*), 'Laws of Neighbors' (*Hilkhot Shekhenim*), and 'Laws of Agents and Partners' (*Hilkhot Sheluhim ve-shutafim*).

commandment or set of commandments is spread over different units, even different books—the laws of *nedarim* (vows) are an example. The units organize the commandments under areas of practice, and tend to suppress their conceptual charge.

The *Mishneh Torah*'s books reveal, or bestow, the commandments' conceptual orientation and momentum. The first ten books arrange the commandments *bein adam lamakom* in a hierarchy of meta-halakhic ideas that is parallel to the hierarchy of the angels. At the top of the angelic hierarchy are the *hayot*, which have the greatest knowledge of God, and at the top of the hierarchy of the *Mishneh Torah* are the commandments most purely concerned with the knowledge of God, in the *Book of Knowledge* (*Sefer Ha-Mada*). The arrangement of the last four books, on commandments *bein adam lehavero*, works differently, as explained below, but in both cases, while the number and order of units within books, and even of chapters within units, can have symbolic significance, the units themselves are practical accounts of halakhah.<sup>10</sup> So even if the book structure had not been formulated when the introduction to *The Book of the Commandments* was written, it is possible to see how the impulse towards a microcosmic form for the *Mishneh Torah* was generated in the tension between the practice-oriented mishnaic-style units and Maimonides' aim (whenever conceived) of conveying his philosophy of the commandments as well.

### **The introduction to the *Mishneh Torah***

The dual scheme emerges fairly clearly in the next text that Kaplan cites, the introduction to the *Mishneh Torah* itself. He purports to show that the section that describes the 14 books and their contents is a late insertion. But if the discussions of the units and of the books don't appear to mesh,

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<sup>10</sup> In the example of *nedarim*, the basic commandment governing vows is to keep one's word, and so their conceptual home is the *Book of Asseveration* (*Sefer Hafla'ab*), which is where the commandment is found. This commandment has practical application in two areas: vows of abstinence, and vows to bring offerings. The detailed laws of vows of abstinence are dealt with in 'Laws of Vows' (*Hilkhot Nedarim*) in the *Book of Asseveration* itself, most probably because they represent a thematic continuation of the previous book, the *Book of Holiness* (*Sefer Kedushah*), which is about restraint of appetite, but for the practical details of vows to bring offerings, Maimonides refers us to 'Laws of Sacrificial Procedures' (*Hilkhot Ma'aseh Hakorbanot*), in the *Book of Temple Service* (*Sefer Avodah*). Note that the cross reference is to the unit, not to the book. Kaplan cites such cross referencing as further evidence that the books were an afterthought, but it is actually consistent with a conceptual versus practical distinction between books and units.

that is precisely because they belong to different categories. Both discussions are introduced by ‘And I saw fit to divide this composition...,’ because the second discussion is not a continuation of the first, but a restart, introducing a different kind of division on a different plane.

The introduction opens with a survey of the history of *torah shebe’al peh*, after which the sequence of subjects is as follows: 1) a statement, like that of *The Book of the Commandments*, that the *Mishneh Torah* will be arranged according to topics (the units), not commandments; 2) a list of the 613 commandments; 3) a statement that the *Mishneh Torah* will be divided into books; 4) a presentation of the books and their contents.

The curious thing is that there is a double presentation of the books. First, Maimonides lists the fourteen books, giving a general characterization of the kind of commandment each contains, with examples. There is no mention of units here. Then he lists the books again, this time giving a detailed breakdown of the units within each book, and the commandments within each unit, but without any sort of characterization. This second list is just a bare table of contents. I submit that the two lists reflect the two schemes of classification. The first is conceptual, and relates the books directly to the commandments, providing at least pointers to the meta-halakhic significance of the commandments in each.<sup>11</sup> The second is practical, and therefore incorporates the layer of the units, without meta-halakhic comment. In other words, in the course of the introduction we are first told about the unit scheme, then about the book scheme, and are then given the synthesis of the two.

Let us not forget that we are dealing here with the esoteric level of the *Mishneh Torah*. Maimonides explains to the philosophically untutored reader how it works as a code of halakhah, while providing a sufficient hint to the savant of his meta-halakhic intentions.<sup>12</sup> The introduction to

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<sup>11</sup> Some of the pointers may not seem to point to very much, but in fact they convey a great deal. I intend to demonstrate elsewhere how this is so in the case of book 8, the *Book of Temple Service* (characterized as being about communal sacrifices) and book 9, the *Book of Offerings (Sefer Ha-Korbanot)* (characterized as being about individual sacrifices).

<sup>12</sup> Did anyone take the hint? In note 110 to chapter 2 of *Reading* (p. 194) I suggest that at least one writer, the ultra-rationalist R. Moshe Nissim of Marseilles (13<sup>th</sup>-14<sup>th</sup> cent.), shows evidence of having understood the cosmic significance for Maimonides of the number 14. On the kabbalistic side, the Introduction to the *Zohar* (11a-14b) presents a list of 14 commandments linked to creation via verses in Genesis, and showing distinct Maimonidean influence. R. Joseph Hamadan (Haba Mi-Shushan Ha-Birah—13<sup>th</sup> cent.), in his *Sefer Taamei HaMitzvot*, builds his version of the *adam elyon* out of the 248 positive and 365 negative command-

the *Mishneh Torah* is entirely coherent, and highly suggestive of the significance of the work's form. Maimonides could well have appended the injunction that closes many chapters of the *Guide*: 'Understand this.'

I should point out that, in the second part of his article, Kaplan himself makes very effective use of the idea of the *Mishneh Torah*'s books as conceptual frameworks, even drawing on the meta-halakhic descriptions in the introduction, to argue, against Soloveitchik, that the laws of conversion truly belong where they are, in the *Book of Holiness* (*Sefer Kedushah*). Is it really likely that, having assembled the commandments into conceptually integrated books, Maimonides did not complete his move and assemble the books themselves according to the concept that unites all the commandments, namely the knowledge of God? The cosmological theory of the *Mishneh Torah*'s structure reveals an integrative pattern that accomplishes precisely that.

### The Geniza fragment

The third piece of evidence is Geniza fragment TS 10 K8, f.1. This is a title page in Maimonides' hand of *Mishneh Torah* book 11, referred to as '*Sefer Mishpatim*.' The fragment states that this book has 14 units. It names only the first unit, as '*Hilkebot Nizkei Mamon*' ('Laws of Damage by Chattels'), the same as in book 11 of the *Mishneh Torah* in its final form. The title of Book 11 was ultimately changed to *Sefer Nezikin*, while *Sefer Mishpatim* became the title of book 13.

The fragment also contains the listing of the commandments that the first unit covers, and its opening two dozen words. Like the unit's title, these are also the same as we now have them.

It appears from this that at least books 11, 12 and 13 of *Mishneh Torah* as we know it, totaling 15 units, existed in an earlier draft as a single book with 14 units, but with the order of the units probably reflecting much the same sequence as we have now. This much is agreed between Kaplan and me. What should we make of it?

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ments in Maimonides' *Book of the Commandments*, in what he regards as Maimonides' real numerology, perhaps intending to displace the implications of the number 14. Isaac of Acre (late 13<sup>th</sup>–mid-14<sup>th</sup> cent.) in *Sefer Meirat Einayim* (*parashat beshalah*) presents ten heavenly spheres in parallel to ten utterances of creation, the Ten Commandments, ten parts of the human body, and ten *sefirot*. The polemic that Kellner describes in *Maimonides' Confrontation with Mysticism* (Oxford, 2006), and mysticism's response, appear to be partly conducted via rival numerologies. I am very grateful to Dr. Iris Felix for providing me with these kabbalistic references and for discussing them with me. I of course am fully responsible for the conclusions drawn here.

It often happens that the changes we see along the way in drafts of a literary work, or sketches made in preparation for a painting, or models for a sculpture, make us appreciate all the more how inspired the final work is.<sup>13</sup> This, I believe, is the story that the evidence of the *Mishneh Torah*'s evolution tells: we are seeing an artist at work, progressively realizing a developing artistic idea.

The Geniza fragment introduces '*Sefer Mishpatim*' as book 11. Kaplan has brought no evidence to suggest that books 1 to 10 were any different at this point from the way we now have them, and the most reasonable assumption we can make is that they were the same. The situation, then, is that at the stage of drafting represented by the Geniza fragment there are ten books on commandments *bein adam lamakom*, and a more or less continuous treatment of the commandments *bein adam lehavero*.

In the cosmos itself, there is a fundamental difference between the ten and the four. The ten orders of angels, and the nine spheres, all possess intellects. Each has a permanent, separate existence and a value dependent on its level of knowledge. The four elements, by contrast, are inanimate, and have no permanent separate existence; the only permanence in their case is of the process of blending and disintegration, of generation and decay. Correspondingly, the ten books on the commandments *bein adam lamakom* represent gradations of knowledge, while the commandments *bein adam lehavero* are all part of a single process, namely the rehabilitation of human society, from wrongdoing and injury in book 11, through the introduction of constructive and cooperative commercial relations in books 12 and 13, to the establishment of the institutions of a stable state in book 14, culminating, as mentioned, in the messiah.

On page 178 of my book I discuss this distinction and state: 'whereas the first ten books, although undoubtedly forming a system, can be related individually, or at least in sub-groups, to specific concepts, and each represents a distinct level of intellectual attainment, **the last four books must be considered collectively as embodying a single process—they really belong under one title**' (bold added). In his early draft, Maimonides did just that: he had ten books on *bein adam lamakom*, but put the commandments *bein adam lehavero* under one title.

The process in the last four books is, as mentioned above, the application to social relations of the intellectual and moral virtue inculcated by books 1 to 10. In the draft structure, this is symbolized by the fourteen units of book 11: the ten brought together with the four; intellect applied to matter.

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<sup>13</sup> Of course later versions of works are not necessarily better than earlier ones. Each case must be judged on its merits.

I do not pretend to divine Maimonides' thoughts here, but it is possible to point to at least two problems with this structure: it makes for a very long book under the one title; and the symbolism does not stand out clearly.

In the *Mishneh Torah* as we have it, each of the last four books comprises five units. This is not coincidence. Five as well as fourteen is a cosmic number in Maimonides. It can represent only the heavens, by conflating the five planets into one category,<sup>14</sup> or it can represent the entire cosmos, by counting all nine heavenly spheres as one category, 'the fifth body,'<sup>15</sup> and adding the four elements. As a microcosm, a human being can also be represented by the number five: the four elements of which the body is composed, plus the intellect.

Books 11 to 14 of the *Mishneh Torah* represent the four elements of matter; that is their province, and that is what distinguishes them from books 1 to 10.<sup>16</sup> Within this superstructure, in each book, the application of intellectual and moral virtue to the body politic is symbolized by the number five.

The *Book of Knowledge*, which concentrates the discussion of intellectual and moral virtue, also has five units. In this case, the number can be taken to stand for the heavens.<sup>17</sup> What happens in books 11 to 14, then, is that the values of the *Book of Knowledge* are drawn down onto the plane of material, earthly existence. Through the form of his work, Maimonides gives artistic and symbolic expression to the shaping of society according to the 'heavenly' component of a human being's make-up. A similar symbolic effect is achieved to that of the draft, but more elegantly, with both the outline and the inner process made clearer.<sup>18</sup>

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<sup>14</sup> The five is then made up of the moon, the sun, the planets, the fixed stars, and the diurnal sphere—see *Guide* ii. 9 (p. 269).

<sup>15</sup> See *Guide* ii. 1 (p. 243); ii. 2 (p. 252).

<sup>16</sup> Even after the 'one title' arrangement was abandoned, books 12 and 13 could easily have been combined, the latter being a direct continuation of the former, as Maimonides explicitly states in his outline of the books in the introduction. This would have made the longest book in the *Mishneh Torah*, but not by much (this assessment is based on a page count in the one-volume edition of the *Mishneh Torah* without commentary published by Or Vishua). I take the fact that Maimonides made two books here where he could have had one as further evidence that he deliberately sought a four-book arrangement.

<sup>17</sup> This and other numerical patterns within the *Book of Knowledge* itself are discussed in *Reading*, pp. 98 and 248–50.

<sup>18</sup> It is not certain whether or not the material of the last book, the *Book of Judges* (*Sefer Shofetim*) was covered by the fourteen units of the draft *Sefer Mishpatim*. I am inclined to think that it may have been; Kaplan demurs. At any rate, in the

It turns out that the explanatory power of the cosmic theory of the *Mishneh Torah*'s structure extends to the structure's history as well, which serves to corroborate the theory. It still takes a leap of imagination to appreciate the *Mishneh Torah*'s artistic form—that is the beauty of it—but, on my interpretation of the evidence Prof. Kaplan presents, the leap has become shorter. 

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*Mishneh Torah* in its final form, it is firmly integrated into the cosmic pattern. If that was not originally the case, this may be considered a further advantage of the way Maimonides developed the structure.