YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Commentaries on the Mishna**

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**Shiur#06: The Commentary of the Rambam on the Mishna (Part 3)**

In the previous *shiur,* we began to discuss the halakhic component of the Rambam’s Commentary on the Mishna, and we noted that the Rambam perceived his work as a platform for rendering practical halakhic decisions. In this *shiur,* we will examine a number of examples illustrating this phenomenon.

1. **Who Receives the First *Aliya* to the Torah?**

The Mishna (*Gittin* 5:8) enumerates a number of *halakhot* that were issued for purposes of promoting peace (*darkhei shalom*). The first one mentioned is relevant to the reading of the Torah in the synagogue: “And these are the matters they said due to *darkhei shalom*: A priest reads first [from the Torah], and then a Levite, and then an Israelite, due to *darkhei shalom.*” During the time of the Rambam, like today, it was customary in many places for the priest to be called to the Torah first, even if he was an ignoramus and there were Torah scholars present. The Rambam strongly attacks this practice in his commentary:

Know that this well-known matter that the priest should read first in the synagogue, whether he is a Torah scholar or an ignoramus, whether there was someone present with greater wisdom than he or not, is a matter that has no basis in the Torah whatsoever, and is not mentioned in the Talmud, and is not the intended idea of this halakha… rather, the idea, as it has been received through tradition, is as I will explain: The priest precedes the Levite, and the Levite precedes the Israelite, and [the reason is that] God says: “And you shall sanctify him.”[[1]](#footnote-1) And the tradition has been recorded: “For all matters of sanctity [the priest is first]: to speak first, to bless first [at a meal], to receive a fine portion [of food] first.”[[2]](#footnote-2) This applies when there is no one greater than him in wisdom there, such as where there are priests, Levites, and Israelites, and all are on equal levels of wisdom, and are not greater than one another. In this case we follow the precedent of lineage, and the priest is first, then the Levite, and then the Israelite.

This is the language used at the end of [tractate] *Horayot,* where it says: “When [does a priest take precedence]? When they are all equal, but if there was a son born from an incestuous or adulterous relationship [*mamzer*] who was a Torah scholar, and a high priest who was an ignoramus, the Torah scholar takes precedent for all matters… (Commentary of the Rambam on the Mishna, *Gittin* 5:8)

The Rambam in this passage attests to the accepted custom, but attacks it, and presents it as a corruption of the appropriate scale of values. In his opinion, one must always honor a Torah scholar before a priest who is an ignoramus. He proves his argument by referencing the Mishna at the end of tractate *Horayot,* which establishes the proper order with regard to various matters of precedent:

A priest precedes a Levite, and a Levite an Israelite, an Israelite a *mamzer*, and a *mamzer* a Nathin, and a Nathin a convert, and a convert [precedes] a freed slave. When [is this so]? When they are all equivalent, but if the mamzer was a Torah scholar, and the high priest was an ignoramus, the mamzer who was a Torah scholar takes precedence over the high priest who is an ignoramus. (Mishna *Horayot* 3:8)

Rambam subsequently supports his opinion based on a number of other passages in the Gemara as well.[[3]](#footnote-3) Rambam’s position here also appears in one of his responsa:

What is the meaning of the statement (*Nedarim* 81a): “Why do Torah scholars often not have Torah emerge from their children? Rav Yehuda said that Rav said: Because they do not recite the blessing on the Torah prior [to studying it].”

We believe that the answer… in this particular matter is that a Torah scholar should be elevated in his status more than a priest who is an ignoramus, or one who is underneath him in wisdom, and he should read first. And because they decreased the honor given to the Torah, and do not call them [i.e., Torah scholars] to the Torah first, but call those who are lesser than they, the majority of them are punished by not having Torah emerge from their children. Although we said: A priest reads first, this is only if they are of equal [stature]. (*Igrot Ha-Rambam,* Shilat edition pp. 212-213)

However, as mentioned, the accepted custom, which even the Rambam recognized, was that a priest always ascends to the Torah first, regardless of his level of Torah knowledge. A number of *Ge’onim* and *Rishonim* do in fact support this practice, and apply the ruling of the Mishna even when the priest is an ignoramus and a Torah scholar is present.[[4]](#footnote-4) Therefore, despite his harsh words in the commentary on the Mishna, the Rambam does not mention this opinion in the *Mishneh Torah*, and he apparently accepted the prevalent custom:

For all of these readings, the priest reads first, and then the Levite, and then the Israelite. And the clear custom today is that even a priest who is an ignoramus is called prior to a great sage. (Rambam, *Hilkhot Tefilla* 12:18)

Clearly, the Rambam accepted the custom, though it is possible that he stresses that it is the “custom today” to indicate that in his opinion, this may not truly be the proper halakha. In any case, this example certainly illustrates that the intention of the Rambam was to clarify the proper halakhic practice in his commentary, and not merely to explain the words of the Mishna.

1. **The Status of Christians**

The goal of issuing halakhic rulings in the Commentary on the Mishna is also strikingly evident from the Rambam’s commentary on tractate *Avoda Zara* where there are a number of examples of this.[[5]](#footnote-5) We will mention one of these examples here. The Mishna states:

A city that contains idolatry, it is permitted [to be] outside of it. If there was idolatry outside of it, it is permitted [to be] inside it. What is [the halakha with regard to] traveling there when the road leads only to that city? It is forbidden. But if it is possible to travel on this road to another location, it is permitted. (Mishna *Avoda Zara* 1:4)

The simple understanding of the Mishna indicates that the rules of being in close proximity to idolatry are extremely stringent. Consequently, if an idol is present in the city, it is forbidden to traverse through the entire city! If the idol is present outside the city, though, it is permitted to travel inside the city. However, due to the reality that in the time of Chazal, many Jews lived in cities also inhabited by pagan non-Jews, the unconditional nature of the prohibition is difficult to understand, and nearly impossible to uphold. Moreover, the context of the previous *mishnayot* indicates that the Mishna refers only to a city in which an idolatrous festival is currently taking place. This is in fact the opinion of Reish Lakish, as it is cited in the *Talmud Yerushalmi* there:

But inside the city it is forbidden. Because there is one idol in it the [entire] inside [of the city] should be forbidden? Reish Lakish said that it refers to [the time of an idolatrous] festival. And what is the difference between inside and outside? Inside, where one benefits from the taxes [to the idols], it is forbidden, but outside, it is permitted, as one does not benefit from the taxes. And if one outside benefits from the taxes, even outside is forbidden. (*Yerushalmi*, *Avoda Zara* 1:4)

According to the *Yerushalmi,* it seems that the prohibition is linked to benefiting from the idol, and not to one’s proximity to the idol per se. This is also the implication of the Tosefta (chapter 1). However, the Rambam in his commentary on the Mishna explains the Mishna without any limitations:

It says “What is [the halakha with regard to] traveling there,” i.e., he uses it as a road on which to travel elsewhere. [The reason one may not enter the city] is because it is never permitted to enter a city with idolatry, and certainly to live there [is forbidden], and also to conduct business there. (Rambam’s Commentary on the Mishna 1:4)

It seems that the question troubling Reish Lakish, “Because there is one idol in it the [entire] inside [of the city] should be forbidden?” did not trouble the Rambam.[[6]](#footnote-6) The Rambam then applies the rule to his time, seemingly fitting in to his goal of teaching practical halakha as part of his commentary:

Therefore, one should know that every Christian city that has a *bama,* i.e., a house of prayer, which is certainly a place of idol worship, is forbidden for Jews to pass through intentionally, and it is certainly forbidden to live there. However, God has given us into their hands, to the point that we are forced to live in their cities, to fulfill the evil decree, “And you will worship gods there that are the product of humans, wood and stone” (*Devarim* 4:28). And if this is the law regarding the city, then all the more so [is it true] regarding the law of the place of idol worship itself, which is nearly forbidden to gaze at, and certainly to approach, and certainly to enter. (Rambam, Commentary on the Mishna, *Avoda Zara* 1:4)

The Rambam here rules that Christians are treated as idol worshipers, and it is therefore forbidden in principle to enter a city that houses a church. The permissibility of living in such a city is only because “God has given us into their hands, to the point that we are forced to live in their cities, to fulfill the evil decree, ‘And you will worship gods there that are the product of humans, wood and stone.’” He concludes his comments with the following argument: If the Mishna forbids entering a city that contains idols, one may not approach and enter a house of idol worship. These words of the Rambam, which clearly illustrate his intention to issue an important halakhic ruling, in fact serve as one of the primary sources cited by the halakhic authorities about the prohibition of entering a church.[[7]](#footnote-7)

1. **Prayer upon Entering the Study Hall (*Beit Midrash*)**

After beginning to discuss the general topic of prayer, the Mishna describes the personal prayer of Rabbi Nechunya ben Ha-kaneh:

Rabbi Nechunya ben Ha-kaneh would recite a short prayer upon entering the study hall and upon exiting. They said to him: What is the purpose of this prayer? He said to them: When I enter, I pray that no mishap should be caused by me, and when I exit I give thanks for my portion. (Mishna *Berakhot* 4:2)

The Mishna does not cite the actual words of the prayer itself, but only the theme of its contents: a request before study, and thanks to God afterward. However, the Gemara cites a *baraita* in which the complete text of these prayers appears:[[8]](#footnote-8)

The Sages taught: What does he say upon entering? May it be Your will, Hashem my God, that a mishap not be caused by me, and I should not stumble over a matter of halakha and [cause] my friends to rejoice over me, and I should not say that something impure is pure, and not that something pure is impure, and my friends should not stumble over a matter of halakha, [causing me] to rejoice over them.

Upon exiting what does he say? I thank you, Hashem my God, that you placed my portion with those who sit in the study hall, and you did not place my portion with those who sit idle. As I arise early, and they arise early; I arise early for words of Torah, and they arise early for idle words. I toil, and they toil; I toil and receive reward, and they toil and do not receive reward. I run and they run; I run to the world to come, and they run to the pit of destruction. (*Berakhot* 28b)

It is unclear from the Gemara whether the word “upon his entering” [*bikenisato*] refers specifically to Rabbi Nechunia, and this *baraita* delineates his prayer, or whether it refers to others entering the study hall. There may be a significant practical difference between the two possibilities, as if it refers to Rabbi Nechunia, then it is merely relating his personal practice. However, if it refers to others, then this *baraita* would appear to indicate that everyone should recite these prayers.

The Rambam in his Commentary on the Mishna interpreted the Gemara in accordance with the second understanding, and felt the need to address this issue:

And they already explained the text of these two prayers and said: What does he say upon entering? May it be Your will, Hashem my God, that I should not stumble over a matter of halakha, that I should not say that [something] impure is pure, and not that [something] pure is impure, and that [something] permitted is forbidden, and not that [something] forbidden is permitted, and that I should not stumble over a matter of halakha causing my friends to rejoice over me, and my friends should not stumble over a matter of halakha causing me to rejoice over them.

Upon exiting what does he say? I thank you, Hashem my God, that you placed my portion with those who sit in the study hall, and you did not place my portion with those who sit idle. As I arise early, and they arise early; I arise early for words of Torah, and they arise early for idle words. I toil, and they toil; I toil and receive reward, and they toil and do not receive reward. I run and they run; I run to the world to come, and they run to the pit of destruction.

And these two prayers are obligatory for anyone entering the study hallto study. You can see [that this is so], as it did not state: “Upon his entering, what would he say?” which would indicate that this only relates to what Rabbi Nechunya ben Ha-kaneh would say, and the choice would be in our hands. Rather, it said: “Upon his entering, what does he say,” i.e., when one enters the study hall, what should he say? And one should recite these two prayers sitting or standing or in any position, and one does not turn his face in the direction in which one prays, and one does not recite a blessing, and there is no prostration. But it is called a prayer in accordance with the primary meaning of the word, as any request is called a prayer. (Rambam, Commentary on the Mishna, *Berakhot* 4:2)

Evidently, the Rambam is issuing a halakhic ruling about these prayers and thereby attempting to convince his readers to recite them. This is why he cites the prayers in full, and does not suffice with a quote of the first line alone. He then proves that they are obligatory in light of his interpretation of the phrase “upon his entering” as referring to anyone that enters, and not just describing the actions of Rabbi Nechunya ben Ha-kaneh. Finally, he concludes by distinguishing between this prayer and that of the *Amida* in a number of ways, which is only necessary if the prayers are indeed obligatory.[[9]](#footnote-9)

It is certainly possible that the Rambam elaborated here due to his recognition of the reality that these prayers were not customarily recited by most people. In later generations, many *Rishonim,* such as the Ritva, indeed held that no obligation exists to recite them. In any event, this is a clear example where the Rambam employs his Commentary on the Mishna as a platform for issuing a practical halakhic ruling.[[10]](#footnote-10)

Translated by Eli Ozarowski

1. The complete verse is: And you shall sanctify him, as he sacrifices the bread of your God, he shall be holy for you, as I, God, who sanctifies you, am holy (*Vayikra* 21:8). [↑](#footnote-ref-1)
2. See *Gittin* 59b. [↑](#footnote-ref-2)
3. For example, the Gemara (*Megilla* 27b) speaks harshly about a priest who is an ignoramus preceding a Torah scholar. [↑](#footnote-ref-3)
4. This is the ruling found in the Siddur of Rav Amram Gaon, and this is the conclusion of *Tosafot* and the Rosh on the passage in the Gemara *Megilla* (28a). For a summary of the Talmudic sources and the various opinions among the *Rishonim,* see the *Beit Yosef* (OC 135). [↑](#footnote-ref-4)
5. See, e.g., the Rambam’s Commentary on the Mishna, *Avoda Zara* 1:3. [↑](#footnote-ref-5)
6. With regard to the source of the Rambam, see the suggestion of Dror Fixler in his edition of the Rambam’s Commentary on the Mishna, tractate *Avoda Zara.* The Rambam in the *Mishneh Torah* (*Hilkhot Avoda Zara* 9:9) is consistent with his approach given here as well, prompting the Ra’avad to argue based on the Tosefta, which indicates that the case is one of a city in which there is an idolatrous festival taking place. [↑](#footnote-ref-6)
7. See, e.g., Rav Ovadia Yosef, *Yechaveh Da’at* (4:45) and *Yabia Omer* (2:YD 11). [↑](#footnote-ref-7)
8. There are many differing versions of the text of this *baraita* among the *Rishonim* and the manuscripts, a subject that is beyond the purview of this *shiur.*  [↑](#footnote-ref-8)
9. The necessity for these distinctions may also stem from the fact that this Mishna is placed in between two other *mishnayot* that both discuss the *Amida*, so the Rambam wished to clarify how the two obligatory prayers are different from each other*.* [↑](#footnote-ref-9)
10. It should be noted that with regard to practical halakha, the *Mishna Berura* (110:36) rules in accordance with the Rambam, while the *Arukh Ha-shulchan* (*Siman* 110) observes that the custom is not to recite this prayer because “those studying in the study hall do not issue halakhic rulings.” [↑](#footnote-ref-10)