YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Commentaries on the Mishna**

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**Shiur#05: The Commentary of the Rambam on the Mishna (Part 2)**

1. **Introduction**

In the previous *shiur,* we discussed the four explanations the Rambam presented to explain his motivation for writing the Commentary on the Mishna:

1. There was a need for a work that would skip the elaborate discussion stage and simply summarize the conclusions of the Talmudic *sugya*. Since it is impossible to remember the entire Talmud by heart, it is difficult to understand and explain the Mishna properly.

2. It would issue definitive halakhic rulings.

3. It would serve as an introduction to other topics, and establish general principles to be used while studying the Talmud*.*

4. It would serve as a summary of the Gemara.

In this *shiur,* we will see how these motives are expressed in the Rambam’s commentary.

1. **Principles and Introductions**

Rabbi Yom Tov Lipman Heller, known as the *Tosefot Yom Tov,* said the following about the Rambam’s practice of formulating general principles in explaining the Mishna:

It is the manner of the Rambam in his commentary to create rules and principles for the Mishna and to combine its topics together, thus making it easier to understand the intent of the Mishna. But this is not the method of Rashi, who explains [each passage] based on the order of the Mishna, one by one, and divides them [his comments] into sections and short passages. (*Tosefot Yom Tov,* introduction to his commentary on the Mishna)

Rabbi Heller notes that Rashi’s commentary style differs from that of the Rambam: Rashi explains the Mishna with a brief running commentary, while the Rambam formulates general principles and uses them to offer one overall introduction to a Mishna, or to summarize a number of topics together.

This distinction between the two commentaries stems from the difference in the nature of their works. Rashi did not author a separate commentary on the Mishna disconnected from his explanation of the Gemara; his commentary on the Mishna is an integrated part of his commentary on the Gemara. Therefore, in his comments on the Mishna, Rashi often says that the matter will be explained in the Gemara, and does not bother to explain it at all. In contrast, the Rambam, as we have seen, authored his commentary to bypass the need for studying the Gemara, and even to be a possible replacement for this study. Therefore, the formulation of principles and guidelines in order to explain the Mishna is required. In other words, the Rambam’s style essentially stems from his first reason cited above for composing his commentary.

There may be an additional reason that the Rambam uses the style of formulating introductions and general principles. The third reason he offers for the necessity of his work is that it may be used as a guide for a more in-depth analysis of the Gemara. This essentially means that he does not intend to explain the Mishna with a running commentary, but rather to lead into the world of the Oral Torah. In order to do so, it is indeed necessary to formulate overall principles. In this context, it is also worthwhile to mention the Introduction of the Rambam to the Mishna and to the 11th chapter of tractate Sanhedrin. Both of these serve as platforms for the Rambam to describe fundamental principles of the Oral Torah and explain important philosophical concepts, which also correspond to this third goal of his work.

We will now cite a number of examples where the Rambam expands his formulation of relevant principles and guidelines.

1. Introduction to *Seder Taharot*

The Rambam wrote a long introduction to the *sedarim* of *Kodashim* and *Taharot*. After presenting many general guidelines, he explicitly explains the necessity of the elaborate introduction:

And I brought you all of these matters so that you do not think that the discussion of these issues is similar to the discussion of other mitzvot such as *sukka*, *lulav*, the oaths taken by guardians, or the oaths of the judges, in that you look at them and believe you understand them at first glance. When you do achieve comprehension of them, it should be viewed as more than a simple [achievement] in your eyes, and you [should not] think that it is the same as [understanding] the matters in the previous *sedarim.*

[Realize] that these principles that I have organized for you in this introduction are very valuable. All of them have been completed with extensive toil by considering all of the components, and I gathered them from all over the Talmud and from the concealed *baraitot* and *Toseftot* until I assembled this introduction, which is the key to understanding everything I intend to explain in this *seder*. The same [is also true] for the majority of difficult *halakhot* found in the Talmud.

Because every halakha discussing impurity and purity (including first degree [impurity] and second degree [impurity]) and the like are difficult for even great rabbis [to understand], and certainly for the students… And one will not truly be able to appreciate this unless he has already toiled for days and not slept at night [while studying] some of those *halakhot* at the beginning of [tractates] *Shabbat, Pesachim, Chagiga, Zevachim, Chullin,* and the like, and he is entirely unsure whether to rely on them. Then, when he reads this introduction and all of those matters are built upon these fundamental basics, he will know the value of what has been accomplished here [in this work].

The analogy to this case is to one who collected coins with a great deal of effort until he amassed a large amount of money. If someone toiled for days and could not find sufficient sustenance [and then attains this wealth], he knows its value. Likewise, if it reaches a wise person, even if he did not toil for it, it will achieve its goal, and when he sees the general state of people [studying these topics], he will know the amount of effort he would have had to expend had he not discovered it.

And the entire reason we have elaborated on this matter is to encourage people to learn this introduction and keep it in mind, so that I do not need to mention these principles in every location that they come up. Rather, I will simply reference them, since the *seder* itself needs elaboration [of the commentary] independent of these principles. (Rambam, introduction to *Seder Taharot*)

Two goals can be discerned from the words of the Rambam here with regard to formulating introductions and guiding principles. One goal is to ease the great difficulty in studying the laws of purity and organizing the various *halakhot* on this topic that are scattered among the writings of the *tanna’im* and *amora’im*. The other goal mentioned is a didactic one: The principles are designed to serve as background for comprehending many *mishnayot,* as well as preventing the need to repeat the entire introduction each time in order to explain the mishna at hand*.* Therefore, he urges the reader to remember the principles.

1. Introduction to Tractate *Shabbat*

The Rambam also formulated introductions and guiding principles for a number of specific tractates. For instance, in the beginning of his commentary on tractate *Shabbat*, he begins by explaining the four different types of domains.

Before I begin the commentary, I will offer a number of necessary introductions, and then the matters in this tractate and the following one [*Eiruvin*] will be clear. Some of these are the [laws] of moving from one domain to another with regard to the laws of Shabbat. There are four areas, and they are called the Shabbat domains. (Introduction of Rambam to tractate *Shabbat*)

As he writes here, the introduction is designed to complement the commentary in achieving comprehension of the material. These guidelines will make it far easier to understand tractates *Shabbat* and *Eiruvin*.

1. Identifying the Samaritans

In many cases, the Rambam adds introductions and establishes guidelines even while explaining a specific Mishna in the middle of the tractate. The Mishna rules that one may respond *amen* to the blessing of a Jew, but may not recite *amen* following the blessing of a *kuti,* a Samaritan, until one hears the entire blessing. The Rambam elaborates on the notion of a Samaritan:

And here we will explain to you who a Samaritan is. They are associated with the nation that Sancheriv brought from Kutah and settled them in the cities of Samaria. The verse testifies that they feared God, but they worshiped their other gods. When many days passed, they learned the Torah and kept it in its simple sense. And they were extremely particular about keeping mitzvot that they upheld, and they were considered to be believers in the Oneness [of God], and did not worship idolatry.

[This was true] until the Sages investigated them and discovered that they had sanctified Mount Gerizim [as a Temple]. And when the Sages investigated the reason for this, they discovered an image of a dove upon the mountain, and they knew that these people were idol worshipers, and they then lowered their status to that of complete non-Jews in all matters. And everything that you find in the Mishna that indicates that the Samaritans are higher than the gentiles and lower than the Jews, such as the fact (*Berakhot* 7:1) that one may participate in a *zimmun* with a Samaritan, and say amen to a Samaritan who recites a blessing, was all before [the Sages] investigated them. However, when they investigated them and discovered what we explained, [from then on] they were considered worse than gentiles. Know this, that we will not need to review this principle anywhere that a Samaritan is mentioned [in the mishna]. (Rambam, Commentary on the Mishna, *Berakhot* 8:8)

Here too, the elaboration found in the Rambam serves two goals:

1. It serves as a general introduction.
2. It offers the tools to facilitate the comprehension of various types of *mishnayot.*

As in many other places, he requests from the learner to remember the introduction so that he need not review it each time.

1. Principles about Forbidden Relationships

In the context of capital punishments described by the Mishna, Rambam writes:

And here is the place for me to mention many guidelines regarding those with whom relations are forbidden [*arayot*], despite their being scattered in many places throughout the Mishna. And we already explained each principle in its location, but I am compiling them here so that they are all in one place for one who wishes to carefully examine them. I will also mention matters that were not explained in the Mishna, so that the work is complete. (Rambam, Commentary on the Mishna, *Sanhedrin* 7:4)

Unlike the previous examples, it appears that in this case, the principles are unnecessary to understand the Mishna. Rather, employing them helps to achieve the goal that Rambam’s work would serve as an introduction to the Oral Torah, as well as a summary of it.

1. **The Commentary on the Mishna as a Work of Halakhic Rulings**[[1]](#footnote-1)

As seen previously, the second reason the Rambam mentioned when explaining the necessity of his work was to offer decisive rulings in cases of dispute in the Mishna. However, it is unclear whether the Rambam truly intended to issue practical rulings. After all, in many instances, the Gemara rules in accordance with an opinion not mentioned at all in the Mishna. Moreover, in other cases, the Gemara or *Rishonim* comment that the reality has changed, and therefore the halakha as recorded in the Mishna is no longer accurate. One could have argued that the Rambam merely wished to inform the learner what the halakha should be in principle, but not necessarily to issue practical rulings. However, a close reading of the actual commentary proves that the Rambam did intend to issue practical halakhic rulings.[[2]](#footnote-2) Here are a number of examples demonstrating the veracity of this statement:

1. Causing Fruits to be Impure in the Land of Israel

The Mishna (*Avoda Zara* 4:9) states that one may not harvest wine with a non-Jew due to the prohibition of *yayin nesekh*, wine that came into contact with a non-Jew. The reason given in the Mishna is that the non-Jew harvests it in impurity, meaning that he causes the fruits to become impure, and it is forbidden to cause impurity to the fruits of the land of Israel.

The Gemara (*Avoda Zara* 55b) cites the Tosefta, which states that this ruling is the *mishna rishona,* the “initial Mishna.” However, they later retracted this ruling and permitted causing impurity to the fruits of the land of Israel: “Initially, they said… one may not harvest grapes with a gentile in a winepress… and they later said… one may harvest grapes with a gentile in a winepress.” If so, it would seem that Rabbi Yehuda Ha-nasi incorporated an anonymous ruling in the Mishna that is not the established halakha. This point is emphasized by the Rambam in his commentary:

“One may press with a gentile in the winepress, but may not harvest grapes with him” – This is the original mishna, and the reason for the prohibition of harvesting with him is because the one who harvests for the winepress has rendered [the grapes] susceptible [to impurity], and when a non-Jew touches them, he renders them impure. Consequently, he has assisted the process of rendering them impure by harvesting with him [the Jew]. And the laws in the entire Mishna are based upon the principle that it is forbidden to cause impurity to non-sacred produce in the land of Israel, and we have already mentioned this twice… But this is all not practical [halakha]. Rather, the halakhic ruling is that it is permitted to cause impurity to non-sacred produce in the land of Israel. (Rambam, Commentary on the Mishna, *Avoda Zara* 4:9)

Evidently, the Rambam does, at least occasionally, note when the accepted halakha is not in accordance with the ruling of the Mishna, as noted by the Gemara.

1. Collecting Debts from Inheritors

The Mishna states the following:

One who steals [an item] and feeds it to his children or he left it to them [as an inheritance], the children are exempt from paying. But if it was something that has responsibility [i.e., property], they are liable to pay. (Mishna *Bava Kamma* 10:1)

The mishna is discussing a person who stole, then fed his children the stolen item (if it was food), and then died. The Mishna rules that they are exempt from repaying the stolen item unless this item was land. The Rambam explains: “This Mishna is based upon two principles. The first is that movable items are not mortgaged to a creditor, and the second is that in the case of a loan given orally, one may not collect from the inheritors.”

The Rambam is noting that one assumption is that movable property is never mortgaged to the creditor; only real estate is mortgaged in this manner. Therefore, one may only collect land from the children to repay the stolen item (which is considered a debt in this regard). The second assumption is that a loan given orally, which is comparable to a robbery, is not collected from the inheritors. The Rambam adds that the practical halakha is different:

But these two principles are not [accepted as] practical halakha. Rather, from our principles that are accepted now [the conclusion is different]: Movable property is mortgaged to a creditor, and a loan given orally can be collected from the inheritors. (Rambam, Commentary on the Mishna, *Bava Kama* 10:1)

The Rambam emphasizes that the ruling in the Mishna is not the practical halakha “now,”[[3]](#footnote-3) and in contrast to the previous example, this does not even refer to a ruling established in the Gemara. Rather, it was instituted by the Ge’onim*,* as the Rambam explains in the *Mishneh Torah* (*Hilkhot Gezeila Va-aveida* 5:6): “The Ge’onim have instituted that a creditor may collect from movable property, and even for a loan given orally. Therefore, one is obligated to pay whether they consumed the item or they did not consume it…” Clearly, the Rambam does not always suffice with an explanation of the Mishna, but also stresses the differences between the rulings in the Mishna and the accepted halakhic rulings in his day.

In the next *shiur,* we will continue to examine additional examples which make it clear that the Rambam saw his Commentary on the Mishna as a platform for establishing halakhic rulings.

1. Some of the examples dealt with below were discussed by Yuval Sinai in his article, “*Perush Ha-Mishna La-Rambam*,” in a collection of articles on the Rambam in honor of Rav Nachum Rabinovitch published by Yeshivat Birkat Moshe, Maaleh Adumim 5772. [↑](#footnote-ref-1)
2. In the article referenced in the previous footnote, Sinai strongly disputes the opinion of R. Dr. Nerya Guttel, who claims that the Rambam did not attach significant importance to issuing halakhic rulings in his Commentary on the Mishna. See, e.g., *Kovetz Ha-Rambam,* Sinai vol. 135-136 (5765). [↑](#footnote-ref-2)
3. Rav Yosef Kapach notes that in the original version of the Rambam’s commentary, the word “now” (“*ata*”) was omitted, and the Rambam inserted it later. The Rambam may have wanted to emphasize that this was a later enactment. We will discuss the issue of corrections and additions to the commentary on the Mishna in more detail in a later *shiur.*  [↑](#footnote-ref-3)