YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Commentaries on the Mishna**

**By Rav Yosef Marcus**

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**In memory of Rebbetzin Miriam Wise, Miriam bat Yitzhak veRivkah z”l,**

**whose yahrtzeit is on 9 Tevet.**

**By Rav Yitzchak and Stefanie Etshalom**

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**Shiur#08: Additional Features of the Rambam’s Commentary on the Mishna**

 In the previous *shiurim,* we discussed the various goals of the Rambam’s Commentary on the Mishna, both those that he explicitly mentions, as well as those that are evident from the commentary itself. In this *shiur,* we will examine a number of additional important features of the Rambam’s Commentary on the Mishna. This will conclude our analysis of the Rambam’s method of interpretation of the Mishna, which will be followed by two *shiurim* analyzing the fascinating topic of the modifications that the Rambam made to his works, and specifically to the Commentary on the Mishna, during the course of his life.

1. **The Use of Illustrations**

In many instances, the Rambam utilizes illustrations in order to explain the Mishna. These diagrams span a wide variety of tractates and topics, such as: illustrations of agricultural crops in tractate *Kilayim,* images of a *sukka* and of a *lulav* in tractate *Sukka,* and diagrams of the Temple in tractate *Middot.* The Rambam makes a crucial comment regarding the importance of using pictures in his commentary to tractate *Middot* (4:2)*.* In that context, the Rambam describes in words the height and measurements of the various courtyards in the Temple, the Priestly courtyard [*Ezrat Kohanim*], the Women’s Courtyard [*Ezrat Nashim*], and the Israelite courtyard [*Ezrat Yisrael*]. He then concludes with the following comment:

Although everything stated above is clear upon contemplation, I am drawing it so that it will be easily understood, and also so that the way the Sanctuary and the courtyards were placed on the slant of the Mount will be understood.  (Rambam, Commentary on the Mishna, *Middot* 4:2)

According to the Rambam, diagrams and images facilitate comprehension, and he therefore utilizes them when necessary.

One of the most famous examples of a picture drawn by the Rambam is his drawing of the menorah*.* In tractate *Menachot* (3:7)*,* the Rambam writes, “I saw fit to draw the complete form of the menorahhere.”However, this subject has actually become one of great controversy. The menorahis perhaps the most common Jewish symbol, and over the course of history, Jews have imprinted it on coins, jewelry, floors, synagogue walls, and other places. In most of these drawings, including in ancient synagogues discovered in Bet Alfa, Tzippori, and Jericho, as well as the famous drawing of the menorahon the gate of Titus in Rome, the menorahappears with semicircular branches. It is noteworthy that in the picture printed in the Vilna edition of the *Shas*, the branches also appear circular.

However, in Rav Kapach’s version of the Commentary of the Rambam, which is based on a manuscript containing the Rambam’s own handwriting (which will be discussed more fully in the following *shiur*), there is a drawing of the menorahwith branches that are diagonally straight, and not curved. In 1981, the Lubavitcher Rebbe addressed this topic at length, and established that based on the Rav Kapach edition, the accepted version of the curved branches was erroneous, and the correct drawing should have diagonally straight branches instead.[[1]](#footnote-1) Moreover, he did not suffice with a theoretical decision that this was the correct version. Rather, he ruled that all pictures of the menorah from that time onward be drawn in this manner, and even public displays of the menorahused for outdoor ceremonies should be constructed likewise. This is in fact the model for the current Chabad menorahson display.

However, other rabbis and scholars disagree, claiming that it is difficult to rely exclusively on the diagram of the menorahas it appears in the Rav Kapach edition of the Mishna. First, even if the Rambam did believe that the branches should be straight, as his son Rabbeinu Avraham ben Ha-Rambam understood in his commentary on the Torah (*Shemot* 25:32), many other halakhic, historical, and archeological sources prove otherwise. Second, it is not at all clear that this is in fact the opinion of the Rambam, as he himself writes later in his commentary on that Mishna:

This is all in order to clarify the image, since the goal of this image is not to present the precise appearance of the cups, since I already explained this matter. Rather, the intent is to present the number of cups, knobs, and flowers and their placement, and the portion of the base that contained nothing on it, and the places that contained the knobs and flowers – generally how it appeared, and this is the image of all these. (Rambam, Commentary on the Mishna, *Menachot* 3:7)

The Rambam attests that the diagram is “not precise,” meaning that it is a schematic picture, and was not intended to be exact. Moreover, Rav Kapach himself, despite claiming that the image in the Arch of Titus in Rome is forged, comments that there are many additional imprecise elements in this diagram of the Rambam.

There has been an ongoing dispute between members of Chabad and Rav Yisrael Ariel, the head of *Machon Ha-Mikdash,* the Temple Institute in the Old City of Jerusalem regarding this issue. Rav Ariel, who wrote a number of articles on the subject,[[2]](#footnote-2) argues that the branches of the menorahwere circular, as per the majority of pictures, and this is in fact how the menorahof *Machon Ha-Mikdash*, (which currently stands in the Old City near the steps descending to the Kotel) is constructed.

1. **The Use of Scientific Tools**

The Rambam’s broad range of knowledge is evident in many passages of the Commentary on the Mishna where he explains *halakhot* and other concepts based on the accepted science of his time. It should be noted that it seems that the Rambam elaborates on these matters even when the Mishna can be understood without them. This appears to indicate that the Rambam sees value in understanding the scientific facts even when the comprehension of the Mishna doesn’t depend on them. Indeed, the Rambam even believes there is an obligation to study the natural sciences, which he associates with the creation of the world (see his commentary on the Mishna *Chagiga* 2:1; *Mishneh Torah, Hilkhot Yesodei Ha-Torah* chapters 3-4). We will now cite a number of examples.

1. **Dawn**

The Mishna in *Berakhot* establishes the following principle:

Every case where the Sages said [a mitzva applies] until *chatzot* (halakhic midnight), the mitzva [extends] until dawn. [Regarding] the offering of fats and limbs [remaining from sacrifices offered the previous day], the mitzva [extends] until dawn. And anything that is eaten for one day, the mitzva [extends] until dawn. If so, why did the Sages state [that they may only be performed] “until *chatzot*?” In order to distance a person from sin. (Mishna *Berkahot* 1:1)

The Rambam in his commentary explains the concept of “dawn,” and in the process provides a scientific explanation for the phenomenon:

Dawn is the ray of light that breaks through in the morning, and it is light that one sees in the corner of the east before the sun rises, about an hour and a fifth (i.e., 72 minutes) in even hours (i.e., standard time) before the sun rises. And the reason it appears is that the light of the sun is approaching the area elevated fifty one *mil* above the ground with thick steam that constantly rises from the ground, which has been explained in the rules of science. (Rambam, Commentary on the Mishna, *Berakhot* 1:1)

The Rambam evidently does not suffice with an explanation of how to identify the arrival of dawn, and instead explains the cause for the phenomenon, despite the fact that this explanation is unnecessary for understanding the Mishna.[[3]](#footnote-3) It is apparent that the Rambam is unique in this matter when comparing his words here to the comments of other explanations of this Mishna. Some do not explain what dawn is at all (Rabbi Ovadya Mi-Bartenura; *Tosefot Yom Tov*), and others (*Tiferet Yisrael*) suffice with a practical explanation of dawn, and how to identify it.

1. **The Proportion of Sunlight to Shade in a Sukka**

The Mishna in *Sukka* establishes that a sukka that has more sunlight than shade is invalid for use. The Gemara adds that if the areas are equal, the sukka is valid, if the amount of shade is measured on the ground of the Sukka. The Rambam in his commentary cites this passage from the Gemara, and adds a scientific explanation for this occurrence.

And they stated that [a sukka] that has more sunlight than shade is invalid, which indicates that if the [amount of] sunlight and shade were equal, the sukka would be kosher, based on what is seen on the ground. Since if we see that the amount of sunlight on the ground is equal to the amount where the *sekakh* shades it, and there is no sun, it is valid, because the openings in the *sekakh* where the sunlight enters are smaller than [the area] that is shaded by the *sekakh* [on the ground]*,* as is explained in the science of “*elmenater*,” whereby when the sun enters through a hole, it will shine on a larger area of land than [the size of] that hole. (Rambam, Commentary on the Mishna, *Sukka* 1:1)

The Rambam explains that the area on the floor of the Sukka which appears lit by sunlight is larger than the area of the holes in the *sekakh* through which the light enters. Consequently, if there is 50% sun and 50% shade on the ground, then at the height of the *sekakh* itself, there is more shade present than sunlight; therefore the Sukka is valid. Despite the fact that the Gemara (*Sukka* 22b) makes reference to this understanding, the Rambam turns to scientific literature to explain the occurrence.

1. **The Definition of *Petzua Dakka* and *Kerut Shafkha***

The Torah issues the following command: “One with crushed testicles and one with severed male genitals shall not enter into the assembly of the Lord” (*Devarim* 23:2). The Mishna defines these terms as follows:

What is a *petzua dakka*? Any case where one’s testicles were wounded, even one of them. And [what is] *kerut shafkha*? Any case where the male member was severed. And if even [the width of] a hairsbreadth remains from the corona; he is fit [to marry].  (Mishna *Yevamot* 8:2)

Although the Mishna provides characteristics to identify these conditions, the Rambam does not suffice with this:

If the genital was wounded, or the cords of the testicles or the testicles were severed, or the member was punctured, or the testicles were punctured, the rule of the matter is that any injury that occurs to the reproductive organ such that natural science dictates it will not propagate [literally: emit sperm], this man is disqualified [to marry into the congregation]. (Rambam, Commentary on the Mishna, *Yevamot* 8:1)

The Rambam here offers a number of specific examples that qualify as *petzua dakka* and *kerut shafkha*, but concludes that science practically defines these conditions, and it is not dependent on the specific characteristics themselves. If according to science, the person cannot propagate, he is forbidden from marrying into the Jewish people. The Rambam in his *Sefer Ha-Mitzvot* also establishes that this issue depends on the scientific question of whether such a person can propagate or not. “And the 360th mitzva is that it warns one who has lost his member to the point that he cannot propagate that he may not have relations with a Jewish daughter.” In this case, the Rambam clearly establishes the parameters of the halakha based upon the realm of medicine.[[4]](#footnote-4)

1. **Explanations for the Editing of the Mishna**

In his Introduction to the Mishna, the Rambam explains in detail the reason for the specific order of tractates in each of the six *sedarim* of Mishna. The Rambam discusses this issue in the commentary as well, and in many instances, he explains the reason a specific Mishna was taught particularly in that location. Here are a number of examples:

1. **Activities Forbidden Prior to Praying *Mincha***

The first Mishna in tractate *Shabbat* opens with a discussion of *halakhot* that are related to the prohibition of transferring from one domain to another on Shabbat. However, the second Mishna deals with an entirely different matter:

One may not sit before a barber close to the time of *Mincha* until he has prayed. One may not enter a bathhouse or tannery, or eat, or judge. And if they began, they need not stop. One does stop to recite *Shema,* but one does not stop for *Tefilla* [*Shemoneh Esreh*]. (Mishna, *Shabbat* 1:2)

The placement of this Mishna at the beginning of tractate *Shabbat* requires an explanation, since it is not at all relevant to Shabbat. The Rambam elaborates about all of the *halakhot* in the Mishna, and then addresses its placement:

But why is this Mishna brought here, if it has no relevance to Shabbat? It is for two reasons: One is that it is included in the 18 matters that were agreed upon that day, as we will explain below [*Shabbat* 2:4]. The second is that they are [intended] to prevent breaches [of law], such as: The tailor may not go out with his needle, which does concern matters of Shabbat. And since it needed to state: The tailor may not go out with his needle, which does concern a matter of Shabbat, it mentions all those decrees that are similar to it. But why did it precede these over “the tailor may not go out with his needle?” Perhaps this was the order of decrees [enacted] on that day. (Rambam, Commentary on the Mishna, *Shabbat* 1:2)

The Rambam here provides two explanations for the placement of this Mishna here. The first is that Mishna 4 in this chapter begins to discuss the 18 matters that were decreed in the attic of Chanaya ben Chizkiyahu ben Gurion, and this halakha is one of those decreed. The second explanation is that this Mishna is similar in form to the next Mishna, “The tailor may not go out with his needle close to darkness [before Shabbat].” Rabbi Yehuda Ha-nasi therefore parenthetically brings this Mishna, which also discusses similar decrees.

1. **Cases of Awareness of Impurity**

The Mishna at the beginning of tractate *Shevuot* lists a series of *halakhot* that all consist of elements that are “two that are four,” meaning that they have two *halakhot* that are written explicitly in the Torah and two that are derived by Chazal:

[With regard to] oaths—[there are] two, which are four; [with regard to] awareness of impurity—[there are] two, which are four; [with regard to] transfers on Shabbat—[there are] two, which are four; [with regard to] the appearance of leprous sores—[there are] two, which are four. (Mishna *Shevuot* 1:1)

With regard to the cases of awareness of impurity, the Mishna refers to a case where one enters the Holy area, the part of the Temple that is forbidden for an Israelite to enter, or when one who eats sacrificial food while in a state of impurity. In both of these cases, an unwitting transgressor must bring a sin-offering. The following *mishnayot* define the term “awareness of impurity” more precisely, and how the amount “two, which are four” is calculated. However, the other cases of Shabbat and leprous sores mentioned by the Mishna are not elaborated. The Rambam in his commentary addresses this:

It begins with an explanation of the [case of] awareness of impurity first, in order to complete the discussion of a matter that is not the topic of the tractate, and then returns to the topic of the tractate, namely oaths. But Shabbat and leprous sores already have been designated [to be taught in] a separate tractate. (Rambam, Commentary on the Mishna, *Shevuot* 1:1)

The Rambam explains here that on one hand, Rabbi Yehuda Ha-nasi chose to open tractate *Shevuot,* following the first introductory Mishna, with the laws of awareness of impurity in order to first complete the discussion of tangential topics, and then to focus on the primary theme of the tractate, oaths. However, he explains that only the laws of impurity are elaborated upon because the other topics mentioned are already discussed in detail in other tractates, *Shabbat* and *Nega’im.*

1. See the following website: <http://chabadpedia.co.il/index.php/%D7%A7%D7%A0%D7%99_%D7%94%D7%9E%D7%A0%D7%95%D7%A8%D7%94> [↑](#footnote-ref-1)
2. “*The Branches of the Menorah: Straight or Round?”* From “*Be-ohrkha Nireh Ohr,*” articles in memory of LieutenantDani Cohen, *hy”d*, Jerusalem 5764, available at [http://www.daat.ac.il/daat/vl/DanyHanuka/DanyHanu)(ka07.pdf](http://www.daat.ac.il/daat/vl/DanyHanuka/DanyHanu%29%28ka07.pdf); *Menorat Zahav Tahor*, published by Machon Ha-Mikdash, Jerusalem 5768. [↑](#footnote-ref-2)
3. The actual explanation of the Rambam here is difficult to understand and doesn’t appear to be compatible with modern scientific facts (see *Sefer Zemanim Be-halakha* p.196 for a possible explanation). Nevertheless, the point here is that the Rambam used the science of his time to attempt to explain the concept, and chose to include this information in his commentary. [↑](#footnote-ref-3)
4. However, in *Hilkhot Issurei Bi’ah* (16:3), the Rambam cites the various halakhic details that are taken from the Mishna and the Gemara without mention of any scientific information or the rule about fathering a child:

“And what is a *petzua dakka*? Anyone whose testicles have been wounded; and *kerut shefkha* is anyone whose member has been severed. And a male can be disqualified [from marrying into the Jewish people] through three limbs: The member, the testicles, and the tubules where the sperm become ripe, which are called the spermatic cords. And when one of these three limbs is injured or crushed, the individual is disqualified.

The *acharonim* (later authorities) discuss whether the Rambam retracted his earlier opinion (see *Chatam Sofer*, E.H. 1:17; Rav Nachum Rabinovitch, “*Ha’arakha Mada’it Kiyesod Le-pesikat Halakha,*” *Techumin* 8, p.435). On one hand, as mentioned, he does not cite the condition of propagation; on the other hand, in the introductory title to *Hilkhot Issurei Bi’ah,* the Rambam writes that the prohibition is “that a eunuch may not marry into the community.” This is different than the formulation of the verse, which referred to a “*petzua dakka*” and *“kerut shofkha*,” while the definition of a eunuch is a medical matter (Rav Rabinovitch).

Rav Moshe Feinstein (*Iggerot Moshe* E.H. 2:3) assumes that the comments of the Rambam in the Commentary on the Mishna are accepted as practical halakha, and in his opinion, the determining criteria is the scientific question whether a male can procreate or not. In his responsum, Rav Moshe addresses the fact that males can in fact procreate despite possessing the characteristics of the Mishna, and explains that the nature of the world has changed since the times of Chazal [*nishtanu ha-teva’im*], when such individuals were not capable of fathering a child.  [↑](#footnote-ref-4)