

Review Essay

Iyunim be-Mishnato shel ha-Rambam (Studies in Maimonides) second edition [Hebrew] by Nachum L. Rabinovitch, Jerusalem: Maaliot Press, 2010.

Reviewed by: AVRAHAM FEINTUCH

1. Introduction

Professor Haym Soloveitchik in his essay “Mishneh Torah: Polemic and Art”¹ described the uniqueness of *Mishneh Torah* within halak-hic codes:

“Both *Mishneh Torah* and the *Shulḥan Arukh* are towering works, but *Mishneh Torah* is the rarest of things—a book of law, a work of sequitur, discursive reasoning that is, at the same time, a work of art.”

And among the works of art it is a “masterpiece,” a “supreme work of art.” Carrying this characterization a step further, masterpieces of art are periodically “restored” so that their authenticity and inherent beauty will stand out for future generations. In our generation we have been witness to a number of significant restoration projects. The Frankel edition is in the process of replacing the

¹ Published in *Maimonides After 800 Years: Essays in Maimonides and His Influence*, ed. Jay M. Harris (Cambridge: Harvard University Press, 2007) pp. 327–343.

Avraham Feintuch holds the “Zlotowski Chair in Operator Theory and Systems” in the Department of Mathematics at Ben Gurion University of the Negev. In addition to his research in mathematics he is the author of *Sefer Hamitzvot im Perush Pekudai Yesbarim* and *Vezot l'Yehudah al Hilkhhot Berakhot LaRambam* (Maaliyot Press), as well as various articles on *Mishneh Torah* and related subjects.

classical Vilna edition that I grew up on as the standard edition of *Mishneh Torah*. Rav Y. Kapah z"l has published a new edition of *Mishneh Torah* based on Yeminite manuscripts, which corrects many errors that appeared in the classical printed edition. This includes a comprehensive commentary, which, while mostly based on "cut and paste" from the standard commentaries, also contains many original comments as well as excerpts from various commentaries that were not previously printed on the same page with Rambam's text.

The relevant restoration project for this review is one that is still in progress. A new edition of *Mishneh Torah* is being produced by Rav Nachum Rabinovitch, Rosh Yeshiva of Yeshivat Birkat Moshe, the Yeshivat Hesder located in Maaleh Adumim. Rav Rabinovitch has so far published the first four books of *Mishneh Torah* as well as books 11 and 13. Book 14, *Sefer Shoftim*, is scheduled to appear shortly. Thus half of the books of *Mishneh Torah* will have appeared, and we pray along with Rav Rabinovitch that God will continue to give him the strength to present us with the second half. The restored text presented in this edition is based on a careful examination of the various manuscripts available for each book. Rav Rabinovitch then chooses, on the basis of considerations that he provides to the reader at the beginning of each book, the manuscript that he feels most accurately restores the original Rambam text. The text is accompanied by a new comprehensive commentary *Yad Peshutah*. Every new commentary on *Mishneh Torah* stands on the shoulders of over 800 years of study by many of the greatest intellects of the Jewish people, and *Yad Peshutah* acknowledges its dependence on this vast body of literature. On the other hand Rav Rabinovitch's new commentary rejects almost completely the "cut and paste" technology and presents an original work that integrates the knowledge and understanding of the previous 800-plus years with new information and ideas, in order to attempt to clarify the text of *Mishneh Torah* to the greatest extent possible.

It is generally quite difficult to isolate the innovations in methodology presented in a commentary on *Mishneh Torah*. Fortunately, in the case of *Yad Peshutah*, the author himself has published various studies in which he describes many of the unique aspects of this commentary, and some of them were collected in the book under

review. (The attempt to describe methodology is very uncommon in the traditional Rabbinic world and no doubt reflects the author's experience in academic scholarship.) "Studies in Maimonides" was first published in 5759 and the second expanded edition appeared in 5770. The studies in this book can be divided naturally into three sets of essays. The first set, which is composed of the first three essays in the book, expounds on various types of problems, most of them classical, encountered in the study of *Mishneh Torah*. While the author doesn't state so explicitly, these essays can be seen as an introduction to *Yad Peshuta*, for they describe in detail many of the types of issues to which the author has made a unique contribution. The second set, also consisting of three essays, deals with the meaning of terms that appear often in *Mishneh Torah*, mainly relating to the issue of classification of the various halakhot on the basis of their origin, Biblical or Rabbinic. Understanding the precise meaning of such terms as "*divrei sofrim*," "*mi-pi ha-kaballah*," "*mi-pi ha-shmua*" and "*halakha le-Moshe mi-Sinai*," which appear in many contexts in Rambam's halakhic writings, is critical for clarifying how Rambam interpreted his sources. There is significant controversy about Rambam's use of these terms both in the traditional rabbinic sources and more recently in academic studies of Rambam's halakhic writings. In these three essays Rav Rabinovitch presents his analysis of Rambam's use of these (and other related) terms, discussing various concrete examples. The final set of four essays deals with the interface between halakha and scientific issues that arise in the modern era. These essays focus mainly on how Rambam can be seen as a precursor of the modern empirical approach to science (as opposed to medieval science), and its place in Halakha. Rambam is presented as a model for the development of an approach to Halakha that is appropriate for dealing with the challenges raised by modern technology. This review will deal mainly with the first set of essays and relate to the second and third parts briefly.

2. Essays on Rambam's Methodology

The fundamental issue that dominates the 800-plus years of *Mishneh Torah* commentary is that of identifying the sources for the various halakhot. This issue was raised first by Rambam himself in his letters, in response to being asked for the sources of particular halak-

hot. While many of the sources are obvious, Rambam comments that in some cases he himself had to exert considerable efforts to reconstruct the reasoning and use of sources that led him to his conclusions. In fact, as he states in a letter to Rav Pinchas Hadayan (quoted by Rav Rabinovitch in the first part of his opening essay), he regretted not attaching an appendix to *Mishneh Torah* relating to the various halakhot for which the sources are not obvious. Why are the Talmudic sources so important? Again, the author brings Rambam's own words that a true appreciation and understanding of the complexity of the issues presented in the halakhot, which are sometimes constructed from a synthesis of a number of *sugyot* appearing in different corners of the vast sea of the Talmud, can be achieved only by identifying all the elements that went into the formulation of each final halakha.

How does one do this? This is of course a very difficult problem and it is not reasonable to expect an algorithm for achieving this goal. Rav Rabinovitch formulates an interesting principle that serves him in his efforts to resolve known difficulties that have puzzled generations of rabbinic commentaries to *Mishneh Torah*: Rambam makes supreme efforts to preserve the terminology of the original Talmudic sources wherever possible, including when he must translate the Aramaic of the Talmud to the unique Hebrew of *Mishneh Torah*. The author demonstrates the use of this principle in various examples from different books of *Mishneh Torah*, where he suggests that difficulties are removed when the Talmudic sources are correctly identified. I will present one example. In the opening halakha of *Hilkhot Shofar*, Rambam formulates a halakha that designates the required instrument for fulfilling the obligation of hearing the *shofar* on Rosh Hashanah:

ושופר שתוקעין בו, בין בראש השנה בין ביובל, הוא קרן הכבשים הכפוף;
וכל השופרות חוץ מקרן הכבש פסולים.

Raabad remarks:

הפריז על מדותיו. אלא מצוה בכפופין, ואם תקע בשל יעל- יצא.

A presentation of the author's complete analysis of these positions is beyond the scope of this review, and the reader is referred to *Yad Peshutah*. The main (and obvious) source for this discussion

is the discussion in *Rosh Hashanah* 26a-b. In particular one considers the statement:

אמר רבי לוי, מצוה של ראש השנה ושל יום הכיפורים בכפופין ושל כל השנה בפשוטין.

There are many Talmudic texts where "מצוה" means "preferable" and not "required," and in fact Rambam often uses this term in this sense in *Mishneh Torah*. This is the basis for Raabad's objection to Rambam's position that "כפופין" are required. Rav Rabinovitch observes that in fact the precise term "קרן הכבשים הכפוף" does not appear in this *sugya*. The closest term appears in the words of רבי יהודה: "זכרים כפופין." Thus one may speculate that in fact there is another Talmudic source that Rambam integrated into his reasoning that led to his conclusion that here רבי לוי uses the term מצוה for "required." The author then suggest such a source in *Yerushalmi Berakhot* 9,1:

אמר רבי לוי, בערביא קורין לאימרא- יובלא- והיה במשוך בקרן היובל.

The Aramaic אימרא translates to כבש, and רבי לוי is stating that the word יובל, which is the biblical word for *shofar*, means קרן הכבש. Rav Rabinovitch argues that Rambam's requirement of קרן הכבש is based on his integrating the statement in the *sugya* in *Rosh Hashanah* with that in *Yerushalmi Berakhot*. The author presents a number of other examples where serious detective work was used in clarifying Rambam's halakhot by identifying sources using an approach similar to that of this particular example.

A second principle that the author formulates for clarifying the content of halakhot is that context is critical. As in the case of the previous principle, this is based on a comment of Rambam himself in one of his responsa that *Mishneh Torah* must be studied in the order that it was written, at least within the context of each of the 14 books and especially in the context of each set of halakhot. Relating to the order of the halakhot in any given chapter is essential to their understanding. We have seen recent editions of *Shas* that, in order to aid the reader, have printed in the margins the actual halakhot referenced in *Ein Mishpat*. This is in fact a great disservice since it removes these halakhot from the context necessary for their understanding.

It is basic that various terms in the Talmud do not always have the same precise meaning but can mean different things in different contexts. Thus Rambam's dedication to the language of his sources transfers this situation to *Mishneh Torah* as well. Being unaware of this can lead to perceived difficulties where in fact no such difficulties exist. Understanding the precise meaning of the terms requires looking at the total "picture" as it is presented by the halakhot in the vicinity. One such example that the author brings is the use of the word מצוה in various ways, sometimes as one of the מצוות תרי"ג מצוות, sometimes as a general principle (See הלכות קריאת שמע א, ג) and sometimes as a Rabbinic obligation (see שבת כט, י). How do we know which is the precise meaning in any given case? This must be determined in each case by looking at the entire context of the issue being discussed.

It should be stated clearly that even those halakhot for which the Talmudic sources are easily identifiable are masterful literary creations and not simply a "cut and paste" exercise. Rambam's artistry expresses itself in many ways. While he generally made it clear to us when a conclusion is not of Talmudic origin but based on his own reasoning (וליראה), he does not feel required to do so when an original rationale for a law of Talmudic origin is presented, whether on the basis of reasoning (סברה) or an original interpretation of a biblical text. Thus we can never be sure if such a rationale is based on a source not yet identified or is in fact an original idea of Rambam. In this vein, Rav Rabinovitch makes the following astute observation. Some of these arguments have previously appeared in Rambam's Arabic language halakhic works, the *Commentary to the Mishnah*, *Sefer Hamitzvot*, *Responsa*, and letters. In many places in these works Rambam states his sources explicitly and quotes from them. An examination of these materials shows that a quotation is always in the original language of the source while original ideas are in Arabic. Since some of these arguments appear in *Mishneh Torah* as well, we can conclude that those that appeared in the other writings in Arabic are not quotations from Talmudic sources but original arguments devised by Rambam himself. The following is a nice example. In הלכות חמץ ומצה ז, א Rambam formulates the obligation to tell the story of the Exodus on the night of the 15th of Nissan:

מצות עשה של תורה לספר בנסים ונפלאות שנעשו לאבותינו במצרים בליל
חמשה עשר בניסן, שנאמר זכור את היום הזה אשר יצאתם ממצרים, כמו
שנאמר זכור את יום השבת.

The association of the word "זכור" in the verse dealing with the Exodus with that in the verse that serves as the source in the Torah for the obligation of Kiddush on Shabbat has puzzled many, and as far as I know no one has turned up a Talmudic text that makes this association. Rav Rabinovitch points out that Rambam has previously mentioned this association in *Sefer Hamitzvot* (positive commandment 157):

ולשון המכילתא אין לי אלא בזמן שיש לו בן; בינו לבין עצמו, בינו לבין
אחרים מנין? תלמוד לומר ויאמר משה אל העם זכור את היום הזה. כלומר-
שהוא צוה לזכרו כמו שאמר זכור את יום השבת.

An examination of the original Arabic text shows that while the *Mekhilta* and the Torah verses are quoted in the original language, the statement "כלומר שהוא צוה לזכרו כמו שאמר" is in Arabic. The author concludes that the connection made by Rambam with the verse זכור את יום השבת is his own. He is saying that we must give the same meaning to the word "זכור" in both verses. For the halakhic conclusion to be drawn from this statement see *Yad Peshuta* on הלכות חמץ ומצה.

Of course identifying Rambam's Talmudic sources will often be only the first stage in the process of resolving difficulties in *Mishneh Torah*. The next stage in many cases is trying to reconstruct Rambam's interpretation of these sources. It seems that Rambam had no knowledge of the commentaries of Rashi or his predecessors in Northern France and Germany. Rambam was a student of the commentaries of Gaonic predecessors, Rabbenu Hananel and others whose names are less familiar to us, and of course Rif and Ri Migash. Their interpretations served for him as a base line. However, as he himself points out in his Responsa (see p. 383 מ"ם), he will sometimes reject their interpretations and strike out on his own. A significant part of *Yad Peshuta* is dedicated to reconstructing Rambam's interpretation of various *sugyot* in order to clarify the meaning of the halakhot derived from them. In addition, Rambam follows their tradition of using the *Talmud Yerushalmi* as an important source and expands its use in drawing halakhic conclusions. As

we saw in a previous example, Rav Rabinovitch observes that Rambam will sometimes use statements quoted from a *Tanna* or *Amora* in the *Talmud Yerushalmi* to clarify a statement of his in the Bavli, and on this basis to formulate the halakha.

I will conclude the review of Rav Rabinovitch's first essay with one last remark on Rambam's use of Talmudic sources. It is often pointed out by the classic commentaries that Rambam has replaced the rationale given for a certain halakha with an explanation of his own. In fact, Rambam himself comments on this and states that for pedagogical reasons he will sometimes replace a complex argument from the Talmud with a simpler one. Rav Rabinovitch discusses various such examples, and these issues are dealt with at length in *Yad Peshuta*.

All the issues discussed up to this point, and raised in the first essay in this volume, relate to problems that were raised by the classical commentaries to *Mishneh Torah*, and while Rav Rabinovitch formulates the principles explicitly and shows that they apply to a large variety of issues, he would be the first to agree that virtually all of them appear, in a nonsystematic way, in many classical commentaries. The next two essays deal with a subject that was not considered (at least explicitly) in these commentaries. Rambam expounds in his introduction to *Sefer HaMitzvot* (and *Mishneh Torah*) on his decision to write *Mishneh Torah* in the language of the Mishnah. He mentions that the language of the Talmud, while predominantly Aramaic, also contains many words and phrases from the various languages of the peoples of the area, and most Jews have no familiarity with these languages. Thus, his decision to write his book in the language of the Mishnah required him, among other things, to identify correctly many non-Aramaic words and to translate them accurately. In addition, many Hebrew and Aramaic words have multiple meanings determined by their context. This raised the following issue: where should he be consistent in his use of such terminology, and where should he adopt the protocol of allowing the context to determine the meaning? There was also another issue to consider. *Mishneh Torah* deals with subjects that are often technically complex (such as the computations required for establishing a calendar) and for which the language of the Mishnah had not given appropriate terminology. This required using the vo-

cabulary of the Mishnah in a creative fashion in order to formulate the halakhot dealing with such subjects.

Rav Rabinovitch shows, by considering various examples, that these issues concerned Rambam deeply and that careful readers must be aware of these issues. This is not just a question of esthetics. It sometimes lies at the heart of understanding particular halakhic rulings. I will briefly discuss some examples mentioned by the author.

The controversy between Rashi and Rambam with respect to the meaning of מהדרין מן המהדרין and מהדרין within the context of הלכות חנוכה is well known. Rav Rabinovitch argues that this controversy is based on an issue of language. Rashi understands מהדרין as an Aramaic word and interprets it as meaning "מחזרין אחרי המצוות". This means that the various members of the household, the מהדרין, are not satisfied with fulfilling their obligation via the action of the head of the household, but pursue a personal involvement fulfilled by their own act of lighting. The מהדרין מן המהדרין extend their personal involvement even further and light each day the number of candles that signify the given day. On the other hand, Rambam interprets the word מהדרין as a Hebrew word related to הידור מצוה, where the head of the household, upon whom the obligation was placed, will fulfill it in a more esthetically pleasing way, and this is expressed in the increased number of candles that the head of the household lights.

A second example is the use of the word "וכן". Every student of *Mishneh Torah* is confronted with numerous halakhot where Rambam lists various examples of a particular principle, connecting them by the word "וכן". These examples are often based on independent Talmudic sources and Rambam brings them together. A natural question that arises in the mind of a reader is How strong is the connection in these cases? Is Rambam telling us that these are identical conceptually even though they arise in different contexts, or is the connection looser and simply meant to point out an important common element? Rav Rabinovitch points us first to a Mishnah (*Sotah*, 1:8,9) and then to a *Baraita* (*Bava Batra*, 52b) where it is clear that the meaning is that despite the clear differences between the cases, the connection is made to emphasize the common elements. The author brings a number of examples from *Mishneh*

Torah where Rambam uses "וכן" in this way. I will mention one such example from *Hilkhot Shabbat* (21, 28):

ואין מתעמלין בשבת. איזה הוא מתעמל? זה שדורסין על גופו בכוח עד שייגע ויזיע, או שיהלך עד שייגע ויזיע, שאסור ליגע את עצמו כדי שיזיע בשבת, מפני שהיא רפואה. **וכן** אסור לעמוד בקרקע דימוסית שבארץ ישראל מפני שמעמלת ומרפאה.

On the one hand the laws are quite different. The first deals with physical activity that has healing effects and the second deals with standing in a certain location that has healing effects. These are certainly different issues. Yet they are connected by their both producing a healing effect, and therefore they are both forbidden on Shabbat. Rambam emphasizes this common element by the use of "וכן."

"וכן" is only one example of a term that designates a certain logical structure. There are other such terms that Rambam uses in *Mishneh Torah*. Rav Rabinovitch studies carefully the use of such terms in order to describe the logical consistency that appears throughout *Mishneh Torah*.

Our final example relates to terms that are used in *Mishneh Torah* to present scientific and technical issues. These terms were often misinterpreted due to the readers' lack of familiarity with the subjects and the terminology Rambam invented for these purposes. A correct understanding of these terms will sometimes clarify halakhot that appear in a completely different context. We state a halakha from יד-טו, הלכות קידוש החדש, יט, יד-טו:

אם היה רחוק מעל הקו השווה לדרום העולם- יראה בין מערב העולם ובין דרומו, ותראה פגמתו נוטה מכנגד מזרח העולם כנגד צפון העולם. **ולפי רוב המרחק לפי רוב הנטייה.**
... שבזמן שתהיה קשת הראייה קצרה- יראה הירח כאלו הוא קרוב מן הארץ; ובזמן שתהיה ארוכה- יראה גבוה מעל הארץ; **ולפי אורך קשת הראייה לפי גבהו מעל הארץ בראית העינים.**

Rav Rabinovitch points out that the construct "לפי לפי" is invented by Rambam to say that two quantities are proportional. The angle is proportional to the distance. The length of the arc is proportional to the height. It is interesting that the correct understanding of Rambam's terminology here can be used to clarify another

halakha in a completely different context that many have struggled with (תשובה, י, ו):

דבר ידוע וברור שאין אהבת הקב"ה נקשרת בלבו שלאדם עד שישגה בה
תמיד כראוי ... אלא בדעה שידעוהו; ועל פי הדעה על פי האהבה, אם מעט-
מעט, ואם הרבה- הרבה.

The meaning of this halakha becomes apparent once the construct "לפי ... לפי" is understood. Love of God is proportional to (the possible) knowledge of God.

I will close this part of the review by returning to the characterization of *Mishneh Torah* as a "work of art." It is almost axiomatic that great works of art generate significant interpretations that may be far beyond the original artist's conscious intent, and many interpreters don't feel constrained at all by the question: could the original creator have had this in mind? It is important to state that this is not the case with Rav Rabinovitch. *Yad Peshuta* sees its goal as reconstructing the actual reasoning of Rambam that lies behind each and every halakha. This is of course a formidable task, and the essays in this section describe the author's approach to its fulfillment.

3. Rambam's Etiology of Law

The 613 *mitzvot* played a fundamental role for Rambam in the writing of *Mishneh Torah*. As he states in his introduction to *Sefer HaMitzvot*, generally, each unit (though there are of course some units that don't contain any biblical commandments) is built around the biblical commandments that are relevant to the particular unit. This is reflected in the fact that at the beginning of each unit Rambam lists those commandments that are discussed in that particular unit. Can one conclude from this, and from the general tendency to see the 613 *mitzvot* as the foundation for the entire halakhic edifice, that these commandments can be seen as a complete description of the halakhic content of Torah, or are there in fact Torah obligations that are not expressed in the context of the 613 *mitzvot*? The first essay in the second part of Rav Rabinovitch's book deals with this question. As the author points out, a number of the thirteen principles of belief that Rambam formulates explicitly in his commentary to the Mishnah and implicitly in *Sefer HaMada*, which are obligatory and whose denial incurs halakhic sanctions, are not di-

rectly connected to any of the mitzvot and can't be derived from them. The obligatory belief in *Melekh Hamashiah* cannot be tied to or derived from any or all of the *taryag mitzvot*.

The author points out that another aspect of the existence of Torah obligations beyond the *taryag mitzvot* follows from the clear distinction made by Rambam in the fifth *shoresh* of *Sefer HaMitzvot* between *mitzva* and *taam hamitzva*. That is, there are goals that certain mitzvot are meant to achieve (some of them explicit in the Torah) that are distinct from the mitzvot themselves. An interesting example discussed by the author is the obligation to dwell in Eretz Yisrael. Unlike Ramban, Rambam does not list this obligation as one of the 613 commandments. On the other hand, *Mishneh Torah* contains many halakhot that are concrete expressions of this obligation. Thus *ישיבה בארץ ישראל* can be seen as an example of an obligation and a goal that is in some sense above mitzvot. This is deeper than the fact that many of the mitzvot are applicable only in Eretz Yisrael. Rav Rabinovitch presents a number of other examples that demonstrate the same singularity.

Rav Rabinovitch argues that for Rambam these two types of obligations that complement *taryag mitzvot* are intimately connected. In fact they and the mitzvot are part of a hierarchal structure that is designed to lead to the ultimate goal: the knowledge of God. This goal is of course of infinite scope and therefore humanly unreachable. This returns us to the end of the previous section. Love of God is proportional to knowledge of God.

The remaining three essays deal with terminology which Rambam uses to formulate his etiology of halakha and about which there has been considerable controversy among readers of *Mishneh Torah* throughout the generations. These are the terms *דברי סופרים*, *מפי הקבלה*, *מפי השמועה*, *הלכה למשה מסיני*. A correct interpretation of these terms is fundamental for understanding Rambam's view of the structure of the halakhic edifice. Rav Rabinovitch presents his interpretation of Rambam's use of these terms along with numerous examples that are used to demonstrate this interpretation. These essays are an important contribution to the vast literature on this subject.

4. Halakha and Science

The last set of four essays in this book deals with the interface between halakha and science and technology. The first essay, הערכה מדעית כיסוד לפסיקת הלכה, deals mainly with halakhic issues that are connected with the beginning of human life (at what stage is the human fetus treated by halakha as a life?), and the end of life (how is death determined in the context of halakha?) Classically these questions arose in the context of whether חילול שבת is permissible in cases where the status of the person involved is not clear. The remarkable advances of medical science and technology in the modern era have completely changed that profession's view of these notions, and these have affected how legal and ethical systems throughout the world relate to these issues. How does halakha relate to these changes? Are the definitions of life and death determined purely by analysis of the case law appearing in Talmudic sources, or are these definitions affected by the possibilities borne of medical advances? This is of course a general question and applies to other cases as well. For example, halakha requires that *tefillin* be square. Are we obliged to use modern laser technology to measure the degree of squareness or should we continue to use traditional criteria for squareness?

Rav Rabinovitch first shows that in the case of definitions of life and death, Rambam in *Mishneh Torah* (as well as others) has integrated the knowledge and role of medical experts in determining the halakhot in this area. One interesting aspect of this issue is that the definition of טריפה for non-human life that is relevant for הלכות מאכלות אסורות is determined completely by Torah and Talmudic sources, while that of humans with respect to חילול שבת is affected by medical advances. With respect to the more general question the author writes:

בענין מעמד הנוצר על פי הגדרה הלכתית, הרי הגדרה זו קבועה ועומדת, אבל במקום שאין הגדרה הלכתית, אלא התורה דרשה ממנו לפעול לפי המציאות, בהכרח שסמכה עלינו לברר את המציאות. וזה לא יתכן אלא כפי יכלתנו, ויש בזה הן להקל והן להחמיר, שהרי יתכן ברבות הזמן יגלו החוקרים החדשים מה שלא נודע לקדמונים.

As for a status constructed according to a halakhic definition, this definition is fixed and unchanging. However, when dealing with issues that are not confined to the realm of halakha,

where the Torah requires us to act in situations that require our evaluation of physical reality, it necessarily gave us the authority to evaluate (or determine) this reality, and this is always contingent on the tools available to us at any given point in time. Since new research often uncovers new information unavailable to previous generations, this may lead to changes in the law, sometimes making it more lenient and in other times more stringent.

Tefillin and forbidden foods are examples of notions that exist only within the context of halakha. Thus all their definitions and notions can be determined only by analysis of traditional sources and are not influenced by extra-halakhic considerations. On the other hand life, death and birth are part of human reality from which their meaning can't be divorced.

On the basis of this principle the author relates to פסולי חיתון, those who are forbidden to marry (a particular person). This subject exists only within the context of halakha. Therefore it is not appropriate to use modern technology such as DNA testing to determine family status.

One subject that would seem appropriate to this essay and is not related to in this work is the effect of organ transplant technology on the halakhic definition of death. This is of course a very controversial subject on which it would be interesting to hear the author's view.

Rambam deals at length in *Moreh Nevukhim* with the contrast between the Aristotelian view of the existence of the universe and the view that the universe was created by Divine will. Many monographs have been dedicated to the study of Rambam's views on this subject. Rav Rabinovitch deals with what he considers a parameter of fundamental importance in Rambam's discussion, and that is the notion of probability in a sense that has many similarities to the modern understanding of this important scientific notion (at least to the finite probability theory of Pascal). He argues that Rambam's understanding of the notion of probability (and its empirical foundations) is derived from his analysis of halakhic *sugyot* that arise in issues related to *Bekhorot*, *Kinim* etc. He then adapted this notion to his philosophical thought. This is a unique idea that to my know-

ledge has not been considered by previous researchers of Rambam's philosophy.

A significant portion of Part Three of *Moreh Nevukhim* deals with *Taamei HaMitzvot*. In the essay מדע ומצוה Rav Rabinovitch points out that for Rambam the methodology to be used for discovering טעמי המצוות is essentially the same as that used for discovering the laws of nature. Just as nature behaves on the basis of laws that mankind is capable of (at least partially) discovering through considerable effort and empirical observation, so empirical observation and study of how observance of particular mitzvot affect both the individual and society is a crucial tool in the process of (at least partially) discovering the rationale behind various mitzvot. The author shows that Rambam saw a close connection between medical sciences that are dedicated to the health of the body and the mitzvot whose goal is רפואת הנפש (in the sense of well-being of the "soul"). Many mitzvot in particular (example: שמחת יום טוב) can be seen by observation to improve the psychological well-being of those who observe them, and therefore one can conclude that this is at least one of the rationales of these mitzvot.

Rav Rabinovitch laments the fact that while Rambam's empirical approach to the laws of nature significantly influenced the development of modern science, which continues to advance and improve the human condition, his approach to טעמי המצוות was abandoned. He feels that a renewed effort in this direction would have many positive consequences for Torah observance.

The last essay in this collection entitled חברה והיסטוריה- ייחודו של Rambam deals with Rambam's statement in the טעמי המצוות section of *Moreh Nevukhim* with respect to קרבנות. This statement was strongly criticized, first by Ramban in his commentary to the Torah, and then by many others who dealt with the subject of טעמי המצוות. Rav Rabinovitch interprets Rambam's approach to this subject on the basis of the distinction between the spiritual needs and obligations of the individual and those of the nation. This distinction arises clearly in the division of *Mishneh Torah* into two parts. The first seven books relate mainly to the individual, and the last seven deal with needs and obligations of the nation. This is reflected in the fact that the first book, ספר המדע, and the eighth, ספר עבודה, play parallel roles, one for the individual and the other for the nation. הלכות

תפילה deals almost completely with תפילת היחיד and the laws of תפילת הציבור is summarized in one chapter. Rav Rabinovitch argues that Rambam's statement in *Moreh Nevukhim* relates to the role of קרבנות in the spiritual life of the individual.

5. Concluding Remarks:

The collection of essays in this book covers a broad spectrum of subjects that arise in the various writings of Rambam. Rav Rabinovitch does not “drill in soft wood.” The issues discussed—whether relating to the methodology of dealing with “difficult halakhot” in *Mishneh Torah*, general notions necessary to clarify Rambam's understanding of the structure of the legal system generated by the halakha, basic issues that arise in the study of *Moreh Nevukhim*, or the relevance of Rambam's writings to contemporary issues—are important for any serious student of Rambam. These essays require study and are not “after-dinner reading.” But the effort is rewarded by a much deeper understanding of the issues, whether or not the reader is totally convinced by all of the arguments. ❧