

A Hagiographer's Review of "Studies in Maimonides and His Interpreters"

Review Essay: *Studies in Maimonides and His Interpreters* by Marc B. Shapiro, University of Scranton, Scranton and London: 2008, 205 pp.

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Academic Bias

In the preface to *Studies in Maimonides and His Interpreters* by Marc B. Shapiro, the author states: "Throughout the book I attempt to utilize the best insights of the traditional and academic interpreters." And while later in the preface and in the book itself¹ he stresses the value of the traditional commentaries, in the first section of this book, "Traditional and Academic Perspectives,"² he does not demonstrate this value. The thrust of his entire presentation is, rather, to demonstrate the flaws of the traditionalist approach, especially that of recent centuries, which he labels the "hagiographic"³ approach.⁴ According to Dr. Shapiro, Rabbis throughout the ages have assumed that Rambam was superhuman, and they therefore refused to recognize his

¹ Especially p. 64.

² This review will only cover until page 85 of the book and Rabbi Weinberg's letters in the Hebrew section, which Dr. Shapiro intimated was relevant to his essay.

³ A hagiography is an idealizing or idolizing biography. According to Wikipedia, "The term 'hagiographic' has also come to be used as a pejorative reference to the works of those contemporary biographers and historians whom critics perceive to be uncritical and even 'reverential' in their writing."

⁴ See pp. 3–5.

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mistakes; instead, they suggested unreasonable answers to cover his errors.

Dr. Shapiro's essay is thus of two parts. First he establishes that 1) Rambam was forgetful and careless. 2) Even though he was forgetful, he trusted his memory and would quote from *Tanach* without looking up the *pasuk*. He thus quoted incorrectly. 3) He would quote *Chazal* without looking up the Gemara and thus get the language wrong. 4) Some of his errors are the results of simple careless slips of the pen. 5) Some of his errors are a result of forgetting sources. 6) Upon remembering or discovering once-forgotten sources, he would correct himself without carrying the correction through to every relevant place. He thus created contradictions that cannot be answered in any rational manner.

Secondly, Dr. Shapiro explains, since many of the traditionalist interpreters of Rambam are "hagiographers," they do not admit to any of this. They insist that every word in *Mishneh Torah* be carefully analyzed and respected, and thus resort to "untenable" solutions. Worst of the lot are the followers of Rav Chaim Soloveitchik, whose "Brisker" approach "was always ahistorical in its orientation" (p. 84). Even realistic traditionalist scholars such as the Chazon Ish and Rav Yechiel Weinberg realized the fallacy of the "Brisker" approach (*ibid.*). All this Dr. Shapiro states as fact, for his case is proven with certainty, with there being no point in ascertaining how the "Briskers" or other "hagiographers" would respond to the irrefutable proofs he gives. Members of that class of people are irrational in their belief in the infallibility of Rambam.⁵ They ignore all evidence to the contrary and continue on with their traditional methodology.

Dr. Shapiro, later in his introduction, explains (p. ix): "While I certainly don't pretend that I am the one best qualified to write the history of interpretation of Maimonides, and in particular the history of *Mishneh Torah* interpretation, I hope the essays included in this book have succeeded in identifying at least some of the issues that will be part of any such investigation." I believe he has been successful in this goal. The issues that he raises are crucial issues and the material he produces to shed light on these issues is enlightening. But rather than presenting this material straightforwardly and doing some preliminary impartial analysis on what should be deduced from this

⁵ And in many cases this belief extends to other *chachmei hamesorah*.

information, he instead assumes that almost anything that can be interpreted as error is indeed so. To a hagiographer, such as I, this book seems to indicate that the academic approach to Rabbinic study is to exercise a negative bias⁶ against such icons as Rambam. It seems that there is an underlying premise that such men were, in fact, not much different than we and perhaps even sloppier in their work than we are. Only by starting with this attitude can the constant string of conclusions that are made in this book be justified. In fact, even without a positive bias,⁷ one could come up with exactly the opposite conclusions. An objective reading of Dr. Shapiro's "evidence" would lead to a realization that there is no case against the traditionalist approach of study and the assumptions it makes about *Mishneh Torah*.

An academic bias is reflected not only in Dr. Shapiro's stated opinions, but also in his writing style and manner of presentation. At times statements are written in such a way as to maximize the impression of Rambam's shortcomings or the degree of error attributed to him by others, where the source itself is far less damning.⁸ Moreover,

⁶ עין רעה of the quality.

⁷ עין טובה.

⁸ On p. 6 we are told that R. Yosef Karo "flatly states that Maimonides erred." The actual language is recorded in n. 23 בדיקדוק שלא נכתב שלא בדקדוק demonstrating the respectful way he stated this. On p. 7 he quotes R. Yehoshua HaNaggid as saying harshly with regard to contradictions "that one should pay no regard to what Maimonides wrote when the *halachah* in question is incidental to the topic under discussion"—while what the Naggid said is דדוכתא עדיפא. Dr. Shapiro makes much of this contending that he is "testifying to a certain negligence on Maimonides' part" since it means that he did not give his statement the same attention as when it was the focus. In fact, all he says is that in choosing between the two, we must obviously give preference to where the focus is; if an error crept in, it would have happened there. It might, in fact, be due to a change that was not recorded in the secondary places and not due to lack of focus. Moreover, R. Yehoshua is not in a position to "testify" anything about Rambam, whom he never met; he is merely stating his opinion. In n. 30, where the language of the same observation made by Radvaz is quoted, Radvaz does say לא דק—but he makes clear that this is an issue of how to handle a tie-breaker and לא דק is a relative term. While Dr. Shapiro writes that *Maggid Mishneh* advances the possibility that there is a careless error in *Mishneh Torah* (n. 43), *Maggid Mishneh* first

Dr. Shapiro often brings a source to demonstrate errors found in *Mishneh Torah*, but then comments in the footnote that in fact there probably was no error. The sources he accumulates actually make a strong argument against attributing error to Rambam, yet the author takes no note of this. For example, in showing that early on there was always a readiness to believe that Rambam had erred, Dr. Shapiro first quotes R. Yaakov Emden and then admits in the note (n. 44) that “it is actually Emden who errs.” Immediately thereafter, he quotes a report that the Netziv said that Rambam erred in *Mishneh Torah* and left out *halachos*, and in the note (n. 45) reports “that he is skeptical of the story.” Immediately thereafter he starts to list authorities who speak of “inexact formulations” in *Mishneh Torah*. The first of these is *Maggid Mishneh* for which he produces only one example, and then explains in the note (n. 46) that this is a poor example since the Rambam is quoting the Talmud which the *Maggid Mishneh* contends is also “not exacting in its language.” Thus we have three cases in a row that are brought to demonstrate that authoritative voices have consistently been ready to believe that Rambam had erred, and yet a better conclusion from these examples is that one should be skeptical when hearing reports about prominent scholars who believed that Rambam erred—the report itself may be wrong, and even if accurate, it is possible that those who thought so were themselves wrong.⁹ We can grant Dr. Shapiro his individual points in this case, but the bottom line here and throughout the book does not support the broader case that he is attempting to make.

In addition, while one sub-section is entitled “To Err Is Human,” and Dr. Shapiro can be forgiven¹⁰ for an occasional error, there are a sufficient number of errors or misleading statements in the proofs brought to undermine Rambam’s reliability, to effectively undermine the reliability of this book.

choice is that it is a scribal error (and the *Kesef Mishneh* has a defense of our *girsá*).

⁹ We will bring other cases of this type of biased writing later.

¹⁰ As I hope I, too, will be forgiven.

Attributing Error

Dr. Shapiro sets the table for advocating ascribing error to Rambam by telling us (p. 6) that unlike later traditionalists, even¹¹ the late *Rishonim* were willing to declare that Rambam had erred. In the note (n. 21), however, we are told that in the case where the Rivash made this point, he was working with a faulty text of *Mishneh Torah*. It could have been added that in many cases R. Yosef Karo will respond to an objection of the Rabad by noting that Rabad was working with a faulty text. Thus an opportunity is lost to inform the reader that the texts of Rambam's works that the *Rishonim* used were very unreliable. The translation that Ramban used of *Sefer HaMitzvos* was so unreliable that he claimed that Rambam's count was missing seven¹² *mitzvos*. Dr. Shapiro leaves to a footnote the information¹³ that the translations of *Perush HaMishnah* were very poor. Two points are then worth noting and in fairness should have been made: 1) Ramban, Rabad, and Rivash would have known Rambam better and would have been slower to attribute error to him had they better texts of his work. 2) Before attributing error to Rambam, it is more reasonable to attribute the error to a faulty text. The entire case for attributing errors of memory and carelessness to Rambam, and about half the essay, can be dismissed if we assume that we are dealing with scribal errors, but no allowance for this argument is made. Indeed, we have better texts today, a selection of manuscripts, but still far from a certainty that we are dealing with the correct *girsa* in any given case, even if there is unanimity in existing manuscripts. Rambam himself complains to a disputant that people are quick to attribute error to him, without checking as to whether the text they were using was accu-

¹¹ Certainly the early *Rishonim* who considered themselves equals or superior, such as Rabad and Ramban.

¹² See Ramban's conclusion to his *he'aros* on *Sefer HaMitzvos*, p. 410 in Chavel ed. The suggestion cited there of the *Zohar HaRakia* that Rambam had released a first edition lacking the seven *mitzvos* is untenable. See Rav Chaim Heller's introduction where he is unsure what translation Ramban used and even suggests he might have used the original. But a study of Ramban's *he'aros* reveals other evidence of his having had a poor text.

¹³ N. 41.

rate.¹⁴ It is worth noting that one of the arguments Rav Kappach used¹⁵ in his claim that the *Teshuvos L'Chachmei Lunel* are forgeries, is the fact that the texts Rambam claims are scribal errors maintain these “errors” in the most reliable manuscripts in *Teiman*. If Dr. Shapiro is so certain¹⁶ that the *Teshuvos L'Chachmei Lunel* are authentic, then he must admit that the correct *girsā* is sometimes not found in any manuscript.

Shortly afterwards (p. 9), a disagreement between Chida and Noda B'Yehudah as to whether we can attribute indecision (קפס) to Rambam is presented in order to demonstrate how far one stream of traditionalists will go in precluding attributing error to Rambam. In fact, this argument highlights how traditionalists have argued throughout the ages. The degree of fallibility to be attributed to Rambam has always been a matter of dispute, and the degree of diversity amongst scholars on this point has always been great, just as has been the degree of diversity in methodology of analysis. However, a scholar who at one point will argue that attributing imprecision to Rambam in a particular case is improper, may himself in another case argue that imprecision must be assumed, since he finds the evidence in a particular case overwhelming. Thus, Dr. Shapiro makes far too much of identifying a unique stream of traditionalists not inclined to attribute error.

On the same page, Dr. Shapiro quotes seventeenth-century rabbis who attribute error in *Perush HaMishnah* to Rambam's youth, explaining that in his youth he may not have known a *Yerushalmi*, but found it later and then changed the ruling in *Mishneh Torah*. Although this approach is later attributed to academics, Dr. Shapiro does indeed note that within the traditional approach we sometimes find the seeds of academia. Attributing imprecision to *Perush HaMishnah* is supported by what Dr. Shapiro records later in the section. Rambam tells us in the closing passages of his *Perush HaMishnah* that he wrote this work while traveling and at times even while aboard a boat and admits that because of this there may be errors—as we can assume that there were times when it would have been difficult for him to check

¹⁴ See *Iggros HaRambam*, Shilat ed., p. 384.

¹⁵ See Rav Yosef Kappach, *Kesavim*, p. 643ff. See pp. 649 and 660 for two examples he gives.

¹⁶ We will discuss the authenticity of these letters, later on.

sources. Thus when scholars proclaim that *Perush HaMishnah* is not fully reliable they are merely repeating what traditionalists have long assumed. This is a point that should have been made later (pp. 55–68) when applauding academia. In fact, there is no tool or assumption that an academic would use, but that some traditionalist would not. Traditionalists differ in their competency and their judgment just as academics do.

Perush HaMishnah

But on the other hand, the circumstances of the writing of the *Perush HaMishnah* would argue against Dr. Shapiro's approach of evaluating Rambam's reliability by speaking of *Mishneh Torah* and *Perush HaMishnah* side by side. He does assert a distinction, but freely throughout the book mixes references of proof of error. The section "To Err is Human" begins with Rambam's own admission of error. Three of these admissions are with regard to the *Perush HaMishnah*,¹⁷ and thus it would be inaccurate to draw conclusions from them to *Mishneh Torah*.

But Dr. Shapiro also tells us in a footnote (n. 41) an important point also to be made later in the text: that Rambam spent his life emending the *Perush HaMishnah*. Certain things should follow from this knowledge: 1) Statements attributing error to Rambam's youth should be discounted, since corrections were made when Rambam had all sources before him at the time of writing of *Mishneh Torah*. 2) The degree of reliability of *Perush HaMishnah* and its expected consistency with *Mishneh Torah* will rest upon ascertaining how late a version of *Perush HaMishnah* we now have access to. Dr. Shapiro seems to assume that what we have is a final version.¹⁸ Yet, the *teshuvah*

¹⁷ Really, some of these objections are not very relevant, anyhow. He admits that he is not sure if he has listed all the *Halachot l'Moshe mi'Sinai*. This is uncertainty on Rambam's part with regard to interpretation, not with regard to memory. In the final analysis, it is a difficult task to understand exactly how Rambam identifies what is a *halachah l'Moshe mi'Sinai*.

¹⁸ Rav Kappach translated a manuscript of *Perush HaMishnah* written apparently in Rambam's own hand (with the exception of *Taharos*) with emendations also believed to have been made by Rambam over the years. See Kappach's introduction to his edition.

quoted suggests a degree of frustration on Rambam's part with the effort of updating the *Perush HaMishnah* and thus he instructs readers to follow *Mishneh Torah* in all cases of discrepancy. More revealing is Rambam's statement at the close of his introduction to the Commentary, saying that he disagreed with Rif in less than ten places. As he disagrees with *Rif* in hundreds of places in *Mishneh Torah*, we know much had changed since then. The student of *Mishneh Torah* and *Perush HaMishnah* will certainly have ascertained many differences, even after all the changes noted in the version Rabbi Kappach used.¹⁹ It is likely that we do not have the final version of Rambam's *Perush HaMishnah*—and why should we not venture that we do not even have a late edition of it.²⁰ We must also note that Dr. Shapiro (p. 52, n. 222) does not quote correctly from *Perush HaMishnah* in one instance, when he quotes Rambam as saying that he does not recall “if” there is a scriptural connection in a particular case, whereas Rambam rather says that he does not recall “what” the scriptural source is. This comment by Rambam in *Perush HaMishnah* certainly suggests that the manuscript is not a late copy of Rambam's work. Over the years Rambam certainly would have found the source.²¹ Rav Kappach notes that Rambam certainly made changes that have not been recorded in this manuscript.²² If there are academics who are convinced that this is a final version despite all the evidence to the contrary, they should be forced to address these issues.²³

Moreover, as Dr. Shapiro notes, the translation of the *Perush HaMishnah* that such people as the Maharik (R. av Yosef Korkos, late fifteenth century) had was very poor, so why should there be any-

¹⁹ Over the years, when coming upon a difficulty in *Mishneh Torah*, I have developed a reluctance to consult the *Perush HaMishnah* until I have made a concerted effort to understand Rambam's meaning as presented in *Mishneh Torah*. Experience has taught that it is better not to be biased by what Rambam says, or seems to say there. An added factor to consider is that R. Kappach's translation is sometimes unclear and perhaps not 100 percent reliable.

²⁰ Perhaps Rav Kappach has found Rambam's scrap copy.

²¹ Dr. Shapiro was able to supply it.

²² Introduction to *Perush HaMishnah*, p. 16.

²³ Dr. Shapiro quotes Kalman Kahana's claim that this copy was not personally written by Rambam and discounts it. Perhaps the case should be reopened.

thing to learn from a statement (p. 10, n. 42) by him that Rambam “was not as exacting as he could have been,” in that work? The Maharik’s attitude towards *Mishneh Torah* is quite the opposite—his degree of דקדוק, analysis of every word and phrase²⁴ is a precursor to that of the “Briskers.” Merely studying his approach²⁵ demonstrates that as early as the sixteenth century, this element of careful analysis of Rambam’s every word was firmly entrenched.

Change and Originality

It is also important to know the reason why Rambam changed his mind so often from what he had written in *Perush HaMishnah*. He does not attribute his earlier errors to having missed sources, but to having relied on the works of the *Geonim*. Dr. Shapiro quotes this point late in his work, buried at the end of a footnote (n. 244), and makes nothing of it. While he mocks those who fail to interpret Rambam’s words according to what Rambam himself says, he somewhat overlooks this crucial source when speaking about Rambam’s errors. “That which is codified in the *chibbur*²⁶ is undoubtedly correct, and so we wrote as well in the *Perush HaMishnah*, and that which is in your hands²⁷ is the first version which I released without proper diligence. And I was influenced in this by the *Sefer HaMitzvos* of Rav Chefetz, ר”ז, and the mistake was in his [analysis], and I just followed after him without verifying. And when I further evaluated and analyzed the statements [of *Chazal*], it became clear that the truth was what we recorded in the *chibbur* and we corrected the *Perush HaMishnah* accordingly. The same happened in so many places that the first version of the *Perush HaMishnah* was subsequently modified, tens of times.²⁸ Each case we had originally followed the opinion of some

²⁴ Especially in his commentary on *Zera'im*. In some cases we only have an abbreviated version of his lengthy commentary.

²⁵ Until the Frankel Rambam was printed, few had access to this work.

²⁶ Composition, i.e., *Mishneh Torah*.

²⁷ A variant version of the *Perush HaMishnah*.

²⁸ The text reads עשרה ענינים. Since we know Rambam changed his mind often, Shilat says that the “ten” refers to mistakes made purely because of dependence on *Geonim*. More likely it should read something like

Gaon, ז"ל, and afterwards the area of error became clear" (*Iggros HaRambam, Shilat* ed., p. 647). "This confusion that people have with regard to the *Perush HaMishnah* is entirely due to the fact that I corrected it in places. The Creator knows that most of my mistakes were due to my having followed *Geonim*, ז"ל, such as *Rabbeinu Nissim* in his *Megilas Setarim* and *Rav Chefetz*, ז"ל, in the *Sefer HaMitzvos*, and others whom it is difficult for me to mention" (*ibid.*, p. 305).

This is also a crucial source in evaluating the issue raised (p. 79ff) about whether Rambam introduced original material or only collected and organized sources in constructing *Mishneh Torah*. By Rambam's admission we understand two fundamental points: 1) He did make mistakes earlier, not because he was unaware of sources—but because he relied on traditional understandings and had not analyzed the issue deeply enough. Dr. Shapiro's presentation never makes this point and makes it sound as if all mistakes are caused by a failing in memory. Understanding Talmudic methodology is an art and a science, as the conceptualizations that *Chazal* dealt with were issues of great depth. As Rambam explains: "All the *Chachamim* that arose after the composition of the Talmud and analyzed it, and were acknowledge for their wisdom, are called *Geonim*. And all these *Geonim* that arose in the land of Israel and in the land of Babylonia and Spain and France, taught the path of the Talmud (דרך התלמוד)²⁹ and brought to light the parts that were hidden and explained its issues, for its path is a very deep path."³⁰ Moreover it is in Aramaic mixed with other languages, for that dialect was very well understood in Babylonia by all at the time of the composition of the Talmud. But in other places, and [even] in Babylonia in the time of the *Geonim*, there were none who knew this language without being taught" (introduction to *Mishneh Torah*). 2) Rambam, of course, was not merely collecting sources, and *Mishneh Torah* reflects his many *chiddushim*—his novel understandings of the sources. The organization of these sources, the placement of each law, and the meticulous choice of words demonstrates his underlying understanding of all these sources. While Dr. Shapiro

עשריות, i.e., "tens of times," since Rambam says in the second *teshuvah* that most of his mistakes were due to the *Geonim* he followed.

²⁹ "The Methodology of Talmudic Analysis" would seem to be the best translation.

³⁰ לפי שדרך עמוקה דרכו עד למאוד "Talmudic methodology is very deep."

seems to treat the stance that Rambam was a *mechadesh* (innovator) as some type of discovery by modern scholars, it is obvious from Rambam's own words³¹ and to every student of Brisk. Rambam's deep understanding of the Talmud—the understanding that *Chazal* had intended us to gain—is the source of his *chiddushim*.

Thus it is puzzling to a traditionalist to discern what *chiddush* Dr. Shapiro (p. 79) is trying to impart by quoting Gerald J. Blidstein in saying there are “thousands of instances where, rooted in the text, Maimonides interprets from his own perspective.” From whose perspective would he be interpreting? Is there anyone who has studied Rambam³² who does not know that his interpretation of the sources differs from that of Rabad and other *Risbonim*? Thus it is disturbing that Dr. Shapiro does not enlighten his readers anywhere in his text, to Rambam's admission that it was his dependence on the interpretations of earlier *Geonim* that had led him astray, and thus his later interpretations display greater originality of interpretation. Dr. Shapiro implies rather (*ibid.*) that his “originality” lay in such things as using proof texts rejected by *Chazal*,³³ i.e., arguing with the conclusions of the Gemara, instead of assuming that Rambam had other *girsas*, interpretations, or assumptions about Talmudic methodology.

The question is raised as to whether Rambam's occasional use of the term *יראה לי* (“it appears to me”) implies that no other statement is “original.” In fact, the simple implication is that Rambam says *יראה לי* when he feels he has deduced something that could be debated.³⁴ But when he feels that he is absolutely certain of what the Talmud means he will at times formulate it in his own words without adding

³¹ Also see Rambam's introduction to *Sefer HaMitzvos*.

³² Or any other Torah source.

³³ See n. 324. For Rambam to bring an additional *pasuk* is no problem as we will explain later. More than one *pasuk* can be a source for a *halachah*. Rambam surely understood why the Gemara used a particular verse and nevertheless Rambam sometimes chose a different verse that is more appropriate for the purposes of his own work.

³⁴ See n. 325 and Shilat pp. 442–443 that is brought there. See n. 343 where he notes this one view but interprets a second view as a claim that Rambam had no evidence from the Gemara. What mechanism does he think Rambam then used?

יִרְאֵה לִי.³⁵ While Dr. Shapiro assembles (pp. 81–82) a large number of commentaries which purportedly insist that Rambam did not add anything that is not in the Talmudic sources except for these יִרְאֵה לִי, there is nothing in their words that suggests they do not credit him with having used his own interpretations in his standard formulations.³⁶

Exactness of Language

Rambam's choice of language is clearly done with the greatest of care. Rav Nachum Eliezer Rabinowitch points out that even the words קטן and קטון have different meanings.³⁷ Often he maintains the exact language of the Talmud as the Talmud itself is exacting in its choice of language, and when he departs from it out of need to clarify a statement, he will generally still stay close to the exact language of the Talmudic source. In addition, just as *Chazal* leave it to the reader to make the appropriate deductions based on a precise reading of their text, so, too, Rambam will often quote their language and leave it to his readers to make the proper deduction.³⁸

³⁵ Sometimes *Geonim* would have made the same formulations as Rambam, so it is no surprise that we find some formulations in *Mishneh Torah* also in the Geonic works (see n. 353, 354 where Dr. Shapiro again attributes Rambam with inexactness.) On p. 85 we are told to accept the possibility that Rambam used rhetoric that did not reflect his real view. For פקוה נפש, I'm sure Rambam would allow a lot, but such theories are still no more than theories.

³⁶ Only the language of R. Elijah Alfandari implies the extremism that Dr. Shapiro attributes to all these sources.

³⁷ See *Al Pi Ha'Be'er, Studies in Jewish Philosophy and Halakhic Thought*, Ben-Gurion University, 2008, pp. 509–527, where Rabbi Rabinowitch gives several examples of Rambam's care and consistency.

³⁸ And as we will explain later, sometimes in a *teshuvah* he will clarify to the questioner the deductions he was expected to have made. Dr. Shapiro notes that R. Yosef Karo says he is only "מעתיק דברי הגמרא" and yet elsewhere says there are exceptions to this rule. In n. 347, he notes that it appears he was mistaken in identifying an exception which is, in fact, fully sourced. Such cases should be a lesson to us, that we should assume that the source is evident to one who has the correct *girsas* and correct interpretations of these sources.

Yet Dr. Shapiro lists seven major rabbis who speak of inexact formulations in *Mishneh Torah*, in order to illustrate that it is acceptable to interpret Rambam accordingly. In fact, six of these men wrote extensive commentaries on *Mishneh Torah*³⁹ so it is hardly surprising that they would occasionally say a formulation is לאו דוקא (not to be read literally).⁴⁰ But this is hardly a reason to encourage others to do so. I remember my Rebbe in RIETS⁴¹ some thirty-nine years ago saying to a classmate who suggested the answer of לאו דוקא to a Talmudic problem, that *Tosfos* who thousands of times had resolved difficulties was to be trusted when he occasionally said לאו דוקא, but he would not accept it from us. What is striking is how few examples of this are given.⁴² And, in fact, it is hardly worthwhile mentioning this at all. If the *Rishonim* can say לאו דוקא of the Gemara, and yet the Gemara is expected to be understood, then why is an equal formulation in Rambam to be a subject of criticism?⁴³ Moreover, the last example is from our beloved "Brisker," Rav Isser Zalman Meltzer, who examined every word of the Rambam closely and merely says⁴⁴ רק דאפשר דלא דייק כל כך—"It is possible that he was not so exact." This is indeed the attitude we hagiographers have. One is unlikely to find anyone who will not be willing to suggest this at some point; however, the greater one's understanding of Rambam, the less used it is.⁴⁵

³⁹ The other being the *Shach*.

⁴⁰ This is the language quoted in n. 48 from R. Yosef Karo.

⁴¹ Rav Chaim Soloveitchik, *shlita*, known to Dr. Shapiro as Prof. Hayyim Soloveitchik.

⁴² About eighteen for all seven, mostly by *Kesef Mishneh* and *Lechem Mishneh* with, as he notes, *Lechem Mishneh* complaining at the use of it by *Kesef Mishneh*.

⁴³ The term לאו דוקא is often used where brevity is used in a particular sentence and if taken literally one can make an errant interpretation, but looking at the totality of the information presented in a larger context, we can deduce the proper meaning.

⁴⁴ Dr. Shapiro quotes him exactly in the footnote and notes that his expression differs from the others.

⁴⁵ Of course, *Rishonim* are more likely to use this when interpreting Rambam than are later-day commentators, just as they are more likely to disagree with him and accuse him of error. This is because they do not study Rambam but merely read him. They have different underlying assumptions and are not in the category of "interpreters."

The Chida's position (p. 8) is quoted as an example of an extreme stance in calling for an exact reading of Rambam—but Dr. Shapiro issues no comment about the simple truth it contains. “If such approaches (assuming inexactness) are adopted, every insignificant student will be able to offer them, and what value is there in writing such things?” If we allow assumption of error or inexactness in all cases of difficulty, we will never solve a problem.

In debunking the belief that profundity is necessary for resolving difficulties in *Mishneh Torah*, Dr. Shapiro brings evidence to the contrary from Rambam's *teshuvos*. He would have us believe that Rambam would give “short non-analytic answers” (p. 73) to problems cited in *Mishneh Torah*. Indeed, in authentic *teshuvos*, Rambam would make the answer as short as he could, but that does not mean they were non-analytic. As Rav Kappach writes,⁴⁶ Rambam wrote five hundred *teshuvos*, mostly in Arabic but some in Hebrew, and they are clear and direct. In a letter to the *Rosh Yeshivah* (*Gaon* of Bagdad), he admonishes him for not reading *Mishneh Torah* with sufficient care.⁴⁷ One *teshuvah* (Shilat, p. 288) illustrative of his style is in another answer to the *Rosh Yeshivah* regarding the following *halachah*:

השורה חטים ושעורים וכיוצא בהן במים הרי זה תולדת זורע וחייב (הל' שבת ה:ב)

“One who soaks wheat or barley or similar things in water performs a *toldab* (a branch of) planting and is guilty for it.”

The *Rosh Yeshivah* claims that this law cannot be true since even growing in an *עציץ שאינו נקוב* (a pot totally disconnected from the ground) is not *זורע* (planting), his evidence being from the fact that from a pot there is no obligation for performing *קצירה* (harvesting), and thus it follows that in planting the law should be the same. Rambam first answers that the law he is stating is explicit in the Gemara *Zevachim*—apparently the vast knowledge (בקיאות) of the *Rosh Yeshivah* with regard to *Hilchos Shabbos*, did not extend into *Zevachim*. Then he explains that in his statement of the law he carefully picked the word *שורה*—soaking—to imply leaving it there for some time until growth will begin, and also he said *וכיוצא בהם* to include seeds

⁴⁶ *Kesavim*, p. 661, except for those to *Chachmei Lunel*.

⁴⁷ See Shilat, p. 383, “בשביל מעוט הסתכלות לדברינו, והיותו מעין בהם אגב שיטפא, בתחלת העיון”.

similar to חטים that have a tougher surface. This was meant to contrast to פשטן וכיוצא בהן, mentioned later in the chapter, that because of the thinness of their surface dissolve quickly and are included under ליישה (kneading) even if being merely put in water "למים... להנותן", without soaking. As far as the argument that there is no prohibition of קוצר from an נקוב שאינו עציץ, the *Rosh Yeshivah* is wrong to compare זריעה וקצירה. זריעה is חייב by definition for initiating the process of growth, not for seeing it through to its end, and thus initiating the process of growth is חייב either in an עציץ or in water. But קצירה is the removal of what has reached the full stage of "קיום"⁴⁸ and this stage can only be identified with what is attached to the ground, while in an עציץ it's already תלוש (detached). Normal *teshuvos* like this confirm Rambam's use of exacting language, דקדוק הלשון, as well as his underlying conceptualization.⁴⁹ We will return to this topic later.

Forgetfulness and Carelessness

Throughout the essay, a large percentage of the evidence of Rambam's fallibility is drawn from errors found in the *Teshuvos L'Chachmei L'anel*. It is there (n. 24) that R. Yosef Karo writes that Rambam has said that a law is not found in *Sbas* while in fact it is⁵⁰ an explicit *Yerushalmi*. It is with regard to such a *teshuvah* that the GRA speaks of Rambam's error (n. 25) and makes the remarkable statement that Rambam was originally correct and is in error when he says he changed his mind. As Dr. Shapiro begins the section "To Err is Human" (p. 11) that will confront "mistakes, carelessness, and forgetfulness by Maimonides," he introduces his evidence by citing the preface to these *Teshuvos*, where Rambam "acknowledges that in old age he indeed suffers from forgetfulness." He does not, however, tell us why Rambam would mention such a thing in the context of explain-

⁴⁸ Of course, in most *teshuvos*, the reader must battle with translations from the Arabic, and getting the exact *lmdus* correct in them is more difficult than with *Mishneh Torah*.

⁴⁹ See pp. 4–5 where he quotes those who hold this "hagiographic" view about the exactness of the language in *Mishneh Torah*. I don't understand why he considers this position unreasonable.

⁵⁰ נכתב שלא בהשגחה.

ing why there are mistakes in what he wrote in *Mishneh Torah*, which was not written in his old age. This is one of the characteristically difficult statements that is found throughout this letter that caused R. Kappach to proclaim it a forgery.⁵¹ Should we accept that the letter is not a forgery, then should we not take Rambam's word that the letter is unreliable as it is written in his old age, and hence there is no support from here to discredit the reliability of *Mishneh Torah*.⁵²

Dr. Shapiro is also quick to attribute errors of forgetfulness to Rambam where it is not necessarily warranted.⁵³ He cites cases where Rambam refers to things he has already mentioned that he claims Rambam has not, while in fact Rambam has mentioned these things—although it takes a careful reading to recognize it.⁵⁴ At times

⁵¹ In addition, in *teshuvas* he may have been extremely rushed in his responses—as he explains in his famous letter to Ibn Tibbon under what rushed and difficult conditions he was responding to him.

⁵² We will return to this letter again later in the Review.

⁵³ Why bring the case on p. 49 where Rambam “seemingly errs” when he knows (n. 209) of scholars who don't think so? Also, it is overstating the case to say Rambam forgot a *halachah* was not in *Mishneh Torah*; at worst he forgot it existed twice.

⁵⁴ See the cases cited on p. 49 in nn. 206 and 207. With regard to the error in *Mishneh Torah*, Rambam has said that more than once (Rambam uses the term כמה פעמים often, and sometimes in the cases I remember it only means twice) he has told us that *korban Pesach* may only be eaten until midnight. The Frankel Rambam references two previous cases, but one is a general statement about all *kodsheim* eaten at night, that they may only be eaten until midnight; apparently Rambam feels that this constitutes a reference. In n. 206, Rambam references his explanation of *divrei sofrim* in *Sefer HaMitzvos* including the statement that *halachah l'Moshe mi'Sinai* is not Torah Law. Following R. Shilat's lead, Dr. Shapiro claims that Rambam does not explain there that *halachah l'Moshe mi'Sinai* is not Torah law. But a careful reading of how Rambam explains *divrei sofrim* there certainly does make it clear that this should be the case, and coupled with his statement in *lav* 192, it is fairly explicit. The several exceptions that Rambam mentioned in the letter, relating to תב, for example, are only found when one reads through all the *mitzvos*. So Rambam is referring to the fact that all this is explained in *Sefer HaMitzvos* when one actually learns the book.

he expects us to take the testimony of other academics about Rambam's errors without providing the evidence for scrutiny.^{55 56}

Followers of Rambam, the ultimate rationalist, are not prone to make irrational statements about him. He was, of course, human. However, as written on his grave, he was "the best of the human race." He was a person of whom the aphorism "from Moshe until Moshe, none arose like Moshe," was said. With regard to "carelessness," we should indeed turn to Rambam's own words, as even in his youth⁵⁷ he tells us that what one writes should be reviewed a thousand times if possible. That was the attitude with which we can assume he approached his writing of *Mishneh Torah*. The fact that there are exactly one thousand chapters in *Mishneh Torah* should give everyone pause; this is surely a work of art, created with the most meticulous care. To hear the word "careless" used of the man whose practices extended into the exacting fields of mathematics, astronomy, and medicine, among others, is disturbing. Rambam's careful description of how to write a perfect *Sefer Torah* (*Hilchos Sefer Torah* 9:10ff), that includes the one he wrote for himself, is inspirational.⁵⁸

In a *teshuvah* (p. 11), Rambam tells us of having temporarily forgotten a source, but he did find it within the hour, so this is really not very relevant. It is unreasonable to think that Rambam never forgot anything,⁵⁹ but the issue with regard to *Mishneh Torah* is not whether

⁵⁵ See p. 50. Is one supposed to believe that Rambam "occasionally overlooked things" leading to "inadvertent consistencies" because Davidson says so?

⁵⁶ On the other hand, he dismisses a report that Rambam himself had said that in his youth he forgot nothing (p. 5).

⁵⁷ Beginning of *Maamar al Kiddush Hashem*.

⁵⁸ Dr. Shapiro assumes Rambam's "lack of consistency when it comes to grammar ... are examples of Maimonides' carelessness" using examples from *Sefer HaMada* as found in *kesav yad* Oxford. Dr. Shapiro does not tell us, however, that this is not from Rambam's hand, nor does it seem the most reliable text. So why not assume some history for these errors other than Rambam's carelessness? By the way, I wonder if scholars have figured out when Rambam uses the word "של" separately and when he uses it attached to the next word? Perhaps the "errors" in grammar can teach us something new about the Hebrew language.

⁵⁹ Although (n. 19) Dr. Shapiro does quote a reference to Rambam having said so in his youth.

he could forget, but whether he researched things properly before he wrote. Since he could look up a *pasuk* or a Gemara, a hagiographer would consider it very unlikely that he made errors in these matters. But the fact that manuscripts have errors in *pesukim* is sufficient evidence to Dr. Shapiro to state without doubt that Rambam quoted from memory and made mistakes in *pesukim*. Thirty pages of the eighty-five relevant pages are filled with these “mistakes.”

Then Dr. Shapiro makes a deduction. Since *pesukim* quoted in the Talmud are misquoted by Rambam, this proves that he quoted the Talmud by heart (p. 16). This deduction is startling. On the contrary, we could suggest that he used the errant language in the Talmudic manuscript and the error came from there. Do present-day academic scholars believe that Talmudic manuscripts in the twelfth century were perfectly reliable and had he copied from them, he would never have gotten things wrong? On the other hand, Rambam tells us how he consulted the best manuscripts available, manuscripts five hundred years old, to determine the most reliable *girsā*.⁶⁰ *Mishneh Torah* was a result of monumental research and meticulous writing, with every word carefully chosen. To the hagiographer it sounds ludicrous to say Rambam quoted a Gemara wrong from memory. The manuscripts of the Talmud in our hands are not nearly as accurate as the ones before Rambam, some going back to the seventh century.⁶¹ When we see variant quotations of Talmudic texts by *Geonim* and even *Rishonim* we attribute them to variant texts, not to error. Yet Dr. Shapiro writes with certainty of Rambam’s misquotes of Talmudic texts.⁶²

⁶⁰ See *Hilchos Malveh v'Loveh* 15:2.

⁶¹ Probably due to the burning of the Talmud in the days of *Rabbeinu Yonah*, we have few manuscripts that did not go through the editing of Rashi.

⁶² Thus, on p. 47 Dr. Shapiro turns to “other inaccuracies” such as where Rambam speaks of King Asa and yet the Talmud relates the event to King Yehoshaphat. He does not consider the possibility that Rambam had another *girsā*. Then he refers to the *Moreh* where Rambam applies a verse to Elisha B. Avuyah when in fact it was applied to Ben Zoma. In the note (187) he does tell us that other Talmudic texts relate it to Ben Azai. But this does not let him allow that Rambam has another *girsā*—and perhaps the correct one. This, despite his acknowledgement that Rambam was privy to Rabbinic sources we do not have.

Dr. Shapiro, after consistently suggesting that contradictions are due to carelessness and error, finally tells us (pp. 59–60) that the *Perush HaMishnah* and *Mishneh Torah* were constantly being updated. He then adds that Rambam never brought these changes “into line.” This fact should serve to clear Rambam of all accusations of inconsistency, for contradictory statements can merely be products of different revisions—and yet this point is never made clearly. Moreover, even after having produced the argument for absolving Rambam of guilt, the author still seems to blame him for never disseminating a final version with all the changes. Would this have been possible? The versions made had been copied and sent to the far corners of the globe. We should assume that Rambam did the best he could to disseminate the changes he made—but before printing, and with the limitations of communication, and the inability to easily reproduce copies, there certainly are parts of earlier and later versions wherever we turn. Every manuscript could have later updates in one area and be behind in another.

Mistaken *Pesukim*

But let us turn now to the thirty pages of mistakes in *pesukim*. First, let us note that many of these mistakes are in *Nach*, not the *Chumash*. Dr. Shapiro discounts the possibility that Rambam had a different version of the *Chumash* then we are working with, because we know he used the Ben Asher Codex to write his *Sefer Torah* and we feel confident that we know what that text was. Nevertheless, he tells us in a note (n. 65) that we do not know if Rambam “carefully examined” the *Nach* portion of this Codex. Thus it would seem to make no sense to assume error in quotations from *Nach*, which is a sizable portion of what is brought. In addition, we have already noted that citations of errors in *Perush HaMishnah* should be treated differently because of the situation in which it was written, and furthermore, Rambam did not have access to the Ben Asher Codex during the writing of this commentary, and it is certainly likely that the Biblical texts available to him diverged even from each other.⁶³ One must wonder if Rambam had to weigh the accuracy of various Biblical

⁶³ The eight pages of error here should perhaps be discounted.

texts during his lifetime and came to different conclusions at different times in life.

Next, we must realize that these are mistakes that the author is assuming Rambam never corrected⁶⁴—many in the *Chumash*, since in no manuscript are the correct versions of the *pasuk* found.⁶⁵ Thus, though every year he heard the reading of the Torah and constantly reviewed his works, and gave *shiurim* on them, still the errors were not corrected.⁶⁶ As Dr. Shapiro notes late in his essay,⁶⁷ we don't know how these manuscripts proliferated. We don't know much about the manuscripts we have,⁶⁸ but we can be certain that we don't have the *Mishneh Torah* that Rambam wrote. Dr. Shapiro notes (n. 68) that although we have good manuscripts (in his opinion), we have no really reliable manuscripts. The *ksav yad* Oxford is generally considered the most reliable,⁶⁹ and he notes “we have an interesting example where the Oxford ms. originally cited the verse properly and the ‘correction’ created a nonexistent verse.” How, indeed, do we explain this? All we can say is that there are no reliable manuscripts, and thus no case for Rambam having erred can be made by examining them.⁷⁰ Indeed, this hagiographer would ask, how can we assume Rambam quoted *pesukim* by heart and erred? If Rambam's memory was not

⁶⁴ Dr. Shapiro is not counting mistakes he feels Rambam corrected himself.

⁶⁵ And we are working with the assumption that if all manuscripts have the error, then certainly this is what Rambam wrote and did not correct.

⁶⁶ Should one respond “Certainly they were—but the fact that they are found in all manuscripts proves that Rambam made these mistakes originally,” then it follows that we do not have late corrected manuscripts.

⁶⁷ Only in the context of explaining how academics' knowledge can help in studying Rambam.

⁶⁸ Even in the *ksav yad* Oxford—the ספר ההתום which Rambam apparently signed as an endorsement.

⁶⁹ And only exists for *Sefer HaMada* and *Sefer Abavah*.

⁷⁰ See p. 16 where Dr. Shapiro wishes to bring evidence from the *Perush HaMishnah* that was written in Rambam's own hand and yet quotes Kalman Kahana who disputes this, adding the argument that the mistakes there in *pesukim* disprove this. Dr. Shapiro argues that anyhow we see many such mistakes in *Mishneh Torah*, but in *Mishneh Torah* we don't have Rambam's own hand and thus Prof. Kahana would argue there as well that they did not come from Rambam's hand.

perfect with regard to *pesukim*, it is difficult to believe that he would trust it in the work that he considered so important; he would consider this a character flaw and would not allow it.

But there is more to consider. We should realize that with regard to *pesukim* the probability of error is greater than with any other part of the text. This is true since the likelihood of a scribe changing a *pasuk* willfully is great. It stands to reason that the scribes would note what they perceived as errors and on their own initiative would make changes. Since there was no standard printed *Tanach*, there must have been a proliferation of variant texts. The scribe may have learned a variant *girsā* his whole life. Learned and well-informed scribes were probably correcting "mistakes" they found in *pesukim*. There can be no reliability in this at all. In addition, Dr. Shapiro (n. 75) quotes Rav Chaim Kanievsky's remark that *pesukim* were purposely altered and shortened, but gives no reason. He leaves the reader oblivious to the serious problem of writing *pesukim*. In a *teshuvah*,⁷¹ Rambam is explicit that when one quotes a *pasuk* in writing he is limited to three words, and when bringing evidence he must use a different type of "lettering" (כתב) or use abbreviations.⁷² For this reason it has been suggested that the Talmud misquotes *pesukim*.⁷³ Rambam must have developed a methodology for handling this issue. Rav Shilat⁷⁴ notes that in some cases Rambam put dots over the *pesukim* in *Perush HaMishnah*, but in other cases he did not. Is it possible that he would write three words followed by וכו' followed by another three words, etc.? Is it possible that he wrote only the first letters of some words? Is it possible that the copyists receiving manuscripts with incomplete *pesukim* tried to fill them out and created errors? Dr. Shapiro refers to cases where Rambam jumps from section of *pasuk* to section without the וכו' and perhaps this was his style, never quoting more than three successive words at a time, and this resulted in copyist error upon

⁷¹ The law itself is based on *Hilchos Sefer Torah* 7:14. Also see the laws of *sirtut* for 3 letters or more in *halachah* 16 which is apparently a different law.

⁷² *Iggros HaRambam*, Shilat, p. 398.

⁷³ In some cases (such as nn. 102, 104) the same "mistakes" appear in Talmudic manuscripts. Dr. Shapiro does not draw the correct conclusions from these instances.

⁷⁴ *Peirush HaRambam L'Avos*, p. 12.

their filling in the gaps. Is it possible that at times Rambam only paraphrased a *pasuk* to avoid the *halachic* problem?

Whose Error?

In demonstrating the kind of errors Rambam makes, Dr. Shapiro (p. 47) quotes from the *Moreh* where Rambam speaks of “Thou shalt be Holy”—קדושים תהיו—as the source of the command to imitate G-d’s ways,⁷⁵ and ascribes this to error. He seems to miss the fact that Rambam in *Mishneh Torah* (*Hil. Deos* 1:6) says that *Chazal* meant for the command “to be holy” to be integrated into the command of imitating G-d’s ways: “So they taught with regard to this *mitzvah*: just as He is merciful so must you be merciful...just as He is holy so must you be holy.” Rambam’s intent is to integrate the *Vayikra Rabbah* (24:4): “Just as I am Holy so must you be Holy” with the *Sifrei* that expounds on following in G-d’s ways—והלכת בדרכיו.⁷⁶ There is no error here, and it demonstrates little faith in Rambam to think he would make an error related to something so fundamental in his thought as והלכת בדרכיו. There must always be informed judgment by the scholar about what can possibly be an error and what cannot be, and it seems that academics sometimes fail to exercise this.

We are told (p. 48) that Rambam erred in the *Moreh* saying the *erech* (value) of a man is 60 *shekalim* (rather than the actual 50 *shekalim*) while explaining that the 30 *shekalim* paid for a killed slave is half the value of a regular man. Obviously Rambam was approximating and had written 50 *shekalim* while 30 is approximately half of this, but an errant scribe quick to use his mathematical knowledge substituted 60 so the half should be exact. Anyone who has gotten to know Rambam, at least a little, should know that he did not make this mistake.⁷⁷

⁷⁵ Rather than והלכת בדרכיו.

⁷⁶ Rabbi Rabinowitch points this out in the *Yad Peshutah* (*ibid.*). Also see *Shoresh* 5 in *Sefer HaMitzvos*.

⁷⁷ Likewise with regard to the claim on p. 48 that Rambam carelessly wrote of 5 family members whom the Torah requires mourning for, rather than 6. He did this in both the positive commands and the negative. How could this be careless, and how could he make such a mathematical mistake: father, mother, son, daughter, brother, sister = 6. One need not be a mathematician to avoid making this mistake. Either

In relation to this, let me note a mistake in this book that seems petty. In listing the errant *pesukim* in the order they appear in *Mishneh Torah*, Dr. Shapiro lists *Hilchos Talmud Torah* before *Hilchos Deos*, and of course the order should be reversed. Certainly this is no big deal, but to a student of *Mishneh Torah* and Rambam in general this is a glaring error. Rambam's ordering in all things is profound, and those who have studied him seriously have thought about the placement of these two books. In a book about Rambam and his interpreters there should not be such an error.

Dr. Shapiro (p. 51) gives two examples of internal contradictions in Rambam where "the lack of uniformity in *Mishneh Torah* is certainly not intentional." One example is from the *mitzvah* of *maaser*, *aseh* 127, where in the listing of *mitzvos* in *Mishneh Torah's* introduction (we will call it the *Sefer Mitzvos Kattan*), Rambam uses the verse *וכל מעשר הארץ*. But in *Hil. Maaser* (1:1) and *Matnos Aniyim* (6:2), he lists another verse *כי את מעשר בני אשר ירימו*. Dr. Shapiro ignores the fact that Rav Chaim Heller's selected *girsas* in the *Sefer HaMitzvos* quotes both verses.⁷⁸ Rav Heller also notes⁷⁹ that both verses are used in the Talmud as sources for the *mitzvah* of *maaser*. Nor does the author inform his reader⁸⁰ that Rambam constantly brings multiple verses for sources of *mitzvos*⁸¹ as he explains

the one manuscript that Rav Heller quotes—which has 5—is accurate, or there is some reason to count one of the pairs as one. Perhaps "son and daughter" is counted as one, as all children are called *בנים*. Perhaps sister is not in the count since it does not apply to all sisters and is in a separate verse.

⁷⁸ And so are both brought (from *Sefer HaMitzvos*) in the *Chinuch* and *Zohar HaRakia*.

⁷⁹ As does Kappach, whom Dr. Shapiro follows in this case.

⁸⁰ Dr. Shapiro does not seem to utilize this knowledge in his evaluations of these two cases. This also has ramifications for the list of Rambam's errors in *pesukim* since Dr. Shapiro claims sometimes the wrong *pesukim* are brought. In some of these cases, it is perhaps the correct *pasuk* although we do not know the Talmudic source.

⁸¹ In the *Sefer HaMitzvos*, *וכבר נכפל* is a constant refrain. Look, for example, early on in the *mitzvah* (*aseh* 5) of *tefillah*, where even in *Mishneh Torah* (*Hil. Tefillah* 1:1) two *pesukim* are brought.

that for *חזוק* (strengthening), a *mitzvah* will be repeated in the Torah,⁸² and thus multiple verses can teach the same law. Rambam thus has the prerogative of bringing one verse or the other in a specific context. Why he chooses one or the other in a specific context should deserve our attention, and presumably something can be learned from his choice, but switching from one to the other should not be viewed as “unintentional” and certainly not as an error.⁸³

Now let us look at the other case of “internal contradiction.”⁸⁴ In *lav* 5, both in *Sefer HaMitzvos* and *Sefer Mitzvos Kattan*, Rambam lists as the source of the prohibition of bowing to *Avodah Zarah*⁸⁵ *לא תשתחוה להם*,⁸⁶ but in *Hilchos Avodah Zarah* (3:3) he gives as the source *לא תשתחוה לאל אחר*. But we are not told that in *Sefer HaMitzvos* Rambam lists also *ולא יזבחו עוד* as an alternate source. As we have explained, as is often the case there are multiple verses implying this *lav* and Rambam has a reason for choosing each in the context he does. Dr. Shapiro (p. 51) says at this point that “there are any number of differences between the *Mishneh Torah* and *Sefer HaMitzvos*,” meaning that there is no point in trying to reconcile them. Why not? They were written at the same time, with the *Sefer HaMitzvos* meant as the introduction and outline to *Mishneh Torah*.⁸⁷ They must be reconciled, but with a realization that there are different goals in each work and the works complement each other. One should note how the *Sefer Mitzvos Kattan* follows the order of the *Sefer HaMitzvos* and that this order is very different from that in *Mishneh Torah*. Why not compare the order of negative *mitzvos* 2–6 with how Rambam orders these *mitzvos* in the introduction to *Hil. Avodah Zarah* (4–8), and then compare this with the order Rambam presents them in *Mishneh Torah* itself—everything

⁸² *Sefer HaMitzvos*, *Shoresh* 9—in contrast to Ramban, and what seems to be normally assumed, that each halachic verse in the Torah must have a specific halachic derivative.

⁸³ The Talmud will thus also bring multiple verses and no *machlokes* should be assumed; rather, the choice should be evaluated in each case. Here the Talmud brought the two verses in different contexts and the Rambam does, too.

⁸⁴ In fact, the case brought first.

⁸⁵ This includes the four types of standard services considered worship, even if not generally used in the service of this particular god.

⁸⁶ From the *עשרת הדברות*.

⁸⁷ See introduction to *Sefer HaMitzvos*.

is completely reversed. And while we are on the subject, why did he divide the *Mitzvos* in the *Moreh Nevuchim* into fourteen categories, as he did in *Mishneh Torah*, but change the structure of these categories completely? Is there really someone out there who thinks he was “confused?”^{88 89}

Attitude

Dr. Shapiro tells us not to expect more of Rambam than his son did. The fact (pp. 11–12) that R. Avraham⁹⁰ suggests “perhaps that his father forgot” a Gemara in the beginning of *Bava Kamma* should allow us to do so. But in fact there is no evidence that Rambam actually forgot this Gemara, although Dr. Shapiro seems to think so. R. Avraham was nineteen when his father died, and as great a student as he was of his father, he is not the best interpreter of his father or the biggest expert on his words. Dr. Shapiro himself points out later that he is not infallible in interpreting his father.⁹¹ The Maharik (R. Yosef

⁸⁸ A word Dr. Shapiro sometimes uses.

⁸⁹ Dr. Shapiro quotes a R. Pinhas Zevihi who points out that while Rambam in *Sefer HaMitzvos* and in the listing of *mitzvos* at the start of *Mishneh Torah* includes destroying *batei midrashim* in the *lav* of **מֵאֲבֹד הַשֵּׁם**, he does not include it in *Mishneh Torah*—since it is not in the *Sifrei* that defines the *lav* and only his own **סִבְרָא**. In fact, Rambam does have the prohibition of destroying a *bais hamidrash* in *Mishneh Torah*, but not where R. Zevihi looked for it. It is in *Hilchos Tefillah* (11:11–13), where respect for **בְּתֵי כְנִסְיֹת וּבְתֵי מִדְרָשִׁים** and laws governing destroying them only in a way that guarantees that they will be rebuilt are mandated. These laws are Torah based and a function of the prohibition of **מֵאֲבֹד הַשֵּׁם**. What this demonstrates is the difference between the organization of the *Sefer HaMitzvos* and *Mishneh Torah*, and the fact that one *mitzvah*, though always a distinct concept itself, can fall into multiple conceptual categories when catalogued in *Mishneh Torah*.

⁹⁰ He writes R. Avraham “felt compelled ... to suggest” but he had already suggested another explanation, so there is no compulsion. There is a plethora of other answers suggested to explain this **לִי יִרְאֶה**. What are the chances Rambam forgot the opening Gemara in *Bava Kamma*?

⁹¹ R. Avraham’s great work is truly in the spirit of his father, but much evidence can be brought that he misinterpreted him at times.

Korkos) suggests rather that Rambam had another *girsā*⁹² and thus says יראה לי on this law that is explicit in our Gemara. Though Dr. Shapiro quotes those who find this unlikely, it is not.⁹³ We know that material in the first two pages of *Bava Kamma* are of Saboraitic origin.⁹⁴ Why then is this *sugya* on 2a not suspect?⁹⁵ Perhaps we know something about Rambam's knowledge that his son did not.

Even a hagiographer such as the Chida would agree that Rambam might on a very rare occasion have had a slip of the pen.⁹⁶ What Chida will not consider is the thought that Rambam forgot sources or could contradict himself by mistakes, and moreover he explains that study based on the assumption that there may be mistakes will inhibit any stretching of one's own mind to accord itself with the superior mind of Rambam. But indeed traditionalists reject the claim that Rambam "forgot things, was careless, or overlooked Rabbinic texts" (p. 52) in authoring *Mishneh Torah* because they understand that he combined diligence with incomparable genius.⁹⁷

Rav Yehiel Weinberg serves as Dr. Shapiro's example of a non-hagiographic modern traditionalist. Rav Weinberg takes for granted that new methods, such as *Brisk*, are inappropriate for studying Rambam. Yet Dr. Shapiro notes (p. 1) that it was not until 1941 that anyone realized that there were exactly one thousand chapters in the *sefer*, revealing to what degree art played a role in this composition. Ram-

⁹² *Shegagos* 7:6. See n. 59 based on Frankel's *mekoros v'tziyunim*.

⁹³ Why should R. Avraham have been aware of all the texts researched by his father?

⁹⁴ The Wikipedia entry for רבנן סבוראי refers to "many *Rishonim*" who confirm this.

⁹⁵ The fact that there are other cases on which Rambam states יראה לי and in our Gemaras the *halachah* is explicit can generally be answered by assuming another *girsā* or that the Gemara is in fact open to interpretation.

⁹⁶ See p. 52 where Dr. Shapiro seems to imply that there would be no admission even to this.

⁹⁷ Even the claim of a few that the work was written with *ruach hakodesh* should not be scoffed at, as Rambam's definition of *ruach hakodesh* does not preclude this, and the idea is somewhat confirmed when he explains that the drive of the author to spread his wisdom to others is prophetic in its nature (*Moreh* 2:37).

bam himself⁹⁸ said that only a few understood the value of what he was doing when he wrote this work, and yet he understood that one day it would dominate the world.⁹⁹ How prescient!¹⁰⁰

Dr. Shapiro suggests (p. 56) that we study Rambam with the same attitude applied to the study of Aristotle, and when not finding an answer, “assume Aristotle was not as careful as he should have been.” Perhaps for Aristotle we should not use this method either,¹⁰¹ and certainly not for Rambam. Even an accomplished physicist would be unwilling to ascribe errors regarding relativity to Einstein, but that would hardly make him a hagiographer. A realist aware of his own deficiencies recognizes that in an area in which he is out of his depth it would be best to cling to every word of the master of the discipline. Thus, when it comes to issues of interpretation (p. 53) and grasp of the material, most traditionalists consider it ludicrous to ascribe error to Rambam,¹⁰² and why Dr. Shapiro seems to consider this a peculiarity is indeed beyond the grasp of the average traditionalist.¹⁰³

In quoting (p. 57) Rambam's discussion in the *Moreh Nevuchim* (introduction) of contradictions, Dr. Shapiro notes Rambam's disdain for those who would create a blatant contradiction, and suggests that

⁹⁸ *Iggros HaRambam*, Shilat ed., pp. 301–2.

⁹⁹ As Dr. Shapiro notes (p. 4), *Mishneh Torah* carries “special weight” over works of others and even over Rambam's other works. He seems surprised by this. He should not be.

¹⁰⁰ Does this not demonstrate רוח הקודש? But indeed the Netziv's (p. 55) view of רוח הקודש in *Mishneh Torah* would probably be viewed very negatively by Rambam, and is irrational.

¹⁰¹ Most of Aristotle is taught from student's texts. I took this off the internet: “the large consensus among scholars that, as with all of Aristotle's surviving manuscripts, we are left with a patchwork that has emerged from the various versions of the text penned by Aristotle himself.” This could apply to *Perush HaMishnah* study as well; and even in *Mishneh Torah*, though we have a master working to give us the best text, nevertheless, what is before us is perhaps to some degree a patchwork of different revisions.

¹⁰² That Dr. Shapiro quotes members of the traditional school that do so, just shows how diverse this community is. Rav Shmuel Brudne, ז”ל, pointed out that we are permitted to argue with the *Rishonim* but we are not that stupid.

¹⁰³ See n. 225—occasionally people will ascribe error.

we be more generous and forgiving. He should have rather quoted the fourth reason given there for the existence of contradictions: “The premises are not identical in both statements, but for certain reasons they are not fully stated in these passages; or two propositions with different subjects which are expressed by the same term without having the difference in meaning pointed out, occur in two passages. The contradiction is therefore only apparent, but there is no contradiction in reality.” What Rambam condemns should not be associated with him,¹⁰⁴ but rather we must assume as he explains, the contradiction is “only apparent,” and must be resolved.¹⁰⁵

The Straw-Traditionalists

With regard to choosing between Rambam’s *teshuvos* and *Mishneh Torah* when they differ, Dr. Shapiro quotes¹⁰⁶ the Maharit and Bais Yosef who say the obvious (p. 71, n. 291): that determining the final word is what is crucial. It is a rare traditionalist who would think otherwise, though Dr. Shapiro has found several.¹⁰⁷ In the world of traditional learning there are always a few unusual opinions, but we should be wary of treating the unusual as if it were the mainstream.

Dr. Shapiro (p. 57) creates straw-traditionalists who he says are opposed to any flexibility about changing the text. He in fact quotes the *Kessef Mishneh* (n. 239) who routinely suggested changes and all traditionalists have been well aware of this option and fully realized that their texts were not sacrosanct. Even Rav Moshe Feinstein

¹⁰⁴ Also see the entire sixth cause of error that we also would not associate with Rambam.

¹⁰⁵ Some time after having written *Mishneh Torah* Rambam condemned those who introduce blatant contradictions. Would he not have been sensitive to this had he actually left contradictions in that work?

¹⁰⁶ If there really are contradictions. The point that Dr. Shapiro has made, that *Mishneh Torah* was updated whenever Rambam changed his mind, makes the issue moot. Rambam would have changed *Mishneh Torah* when he wrote the *teshuvah*; the only issue is finding out what was last.

¹⁰⁷ I couldn’t find the Radvaz he notes in 289 but I assume it is there. See n. 299 that claims R. Chaim Volozhen said such a thing. I think we need stronger evidence before believing it. See pp. 75–76 where he notes that the Chida’s position is inconsistent, and really not very revealing.

would change a *Mishneh Torah* text, but in a famous case regarding *treifos*¹⁰⁸ it would not appear the change was warranted, which merely demonstrates the difficulty we are faced with. Dr. Shapiro likewise notes (n. 239) that *Kesef Mishneh* created problems by being too quick to change a text.¹⁰⁹ ¹¹⁰ Suggesting changes has always been a common traditionalist option, and Dr. Shapiro's limitation of so doing to texts supported by a manuscript is not reasonable.¹¹¹ But this attitude is not inconsistent with the hagiographer's stance that "every alternative expression and change of word in the *Mishneh Torah* is of significance, just as if one was interpreting the Mishnah." Why should Rambam have not tried to emulate the exactness of the Mishnah—and evidence supports the assumption he did.¹¹²

Dr. Shapiro speaks of the "classic" work of Jacob Levinger that refutes the "hagiographic" assumption that *Mishneh Torah* is מדוקדק (exacting in every word) and performs "humanizing" of *Mishneh Torah* and Maimonides. Rather than bringing examples from this "classic," Dr. Shapiro provides only his own examples showing "that for stylistic reasons, Maimonides was not always exacting in his language." He tells us that in the *halachah* below, the last five words are stylistic and teach nothing, but the hagiographer will find it necessary to find "a significant teaching" in this phrase or else find it "difficult."

האומר פירות אלו אסורין עליי היום, אם אלך למקום פלוני למחר—הרי
זה אסור לאכול אותן היום: גזירה, שמא ילך למחר לאותו מקום. ואם
עבר ואכלן היום והלך למחר, לוקה; ואם לא הלך, אינו לוקה.

¹⁰⁸ Discussed in *Hakirah* 4, "Rationality and Halacha" pp. 121–136.

¹⁰⁹ As did *Maggid Mishneh* as is also noted.

¹¹⁰ This changing of texts obviously happened with Gemaras, and thus often where we have Rashi saying הכי גרסינן, the text before us will already have been emended in accordance with his position.

¹¹¹ In the same n. 239, Dr. Shapiro notes that Kappach would make changes without support and in at least one case manuscript support was subsequently found. The GRA is famous for doing this.

¹¹² See "Exactness of Language," above. The evidence is really in practically every *halachah*, but as Rambam says, in his day only a few really understood what he had done and even today many do not.

But a check of Frankel's מפתח—his index that records every hagiographer who ever wrote on this Rambam¹¹³—records no question ever having been raised about this superfluous phrase.¹¹⁴ In the next case¹¹⁵ that he presents, he convinces us that a phrase is insignificant, and in a note (n. 241) tells us that this has been stated in Frankel's ילקוט שינוי נוסחאות (collection of variant texts). He could have quoted the R. Manoach newly printed there to also support this approach. Or he could have quoted the Maaseh Roke'ach—the lone late traditionalist who asked the question and answers לאו דוקא. Whereas Dr. Shapiro is attacking the straw-men of hagiography, the traditionalists are clearly on the same wavelength as the academics on such *halachos*.^{116 117}

¹¹³ Unless he was a Zionist.

¹¹⁴ But (and I'm not sure if this is the meaning of "stylistic" or if I'm just being hagiographic), the phrase would seem to have been stated to clarify that in this latter case, the prohibition has been violated by eating the פירות in this last case, but there is no recourse to מלקות. This is the elegant way of clarifying this seeming verbosity.

¹¹⁵ Of לולבי גפנים.

¹¹⁶ But there are always extremists like me who will suspect that if the Gemara had this *girsā* and this is why Rambam quoted it, then there was a reason for the Gemara and Rambam to say it. Only in Israel is the development of the vine such at this time of year so that we can guarantee that there is edibility on the day of Yom Kippur. As the commentaries sometimes say, דו"ק ותשכה.

¹¹⁷ With regard to the claim that he found an imprecision with regard to whether יום טוב שני מנהג or מנהג איתו, it seems that since a מנהג is also instituted by *Bais Din*, the term תקנו may be appropriate. But he is very likely correct that Rambam changed his mind and we have mixed manuscripts. His point may have been made a little less effective since the Hebrew is mangled; with all the advancement and help we still have ugly mistakes in our printed books.

Modern Methodology

The scholarship given by Dr. Shapiro to substantiate a kind of superiority of academic methodology over traditionalism, is available to those studying with the Frankel Rambam. This edition, replete with corrected texts, *shinui nuschaos* (variant texts), indexes, and references to the other works¹¹⁸ of Rambam has emerged from the traditionalist world and become the standard in *yeshivos*. Moreover, when a solution to a problem is not found there, this sometimes means no problem really exists.

We are told of (p. 61) an “internal inconsistency” that academics have discovered, not noted in any of the traditional sources. In *Maachalos Assuros* 11:8 Rambam specifies that the term גוי is to refer to an idolator. Yet in *Issurei Biab* 12:1–10 it clearly refers to all gentiles. The only possibility was either that Rambam “was not careful with his language” or that the chapters had not yet been harmonized. One must be careful when raising a contradiction not raised by the traditionalists. Rambam in *Maachalos Assuros* was speaking about the use of the term גוי exclusively in the laws of *Hilchos Yayin Nesech* where there is a distinction between idolators and other gentiles. Rambam has mentioned גוי before in *Hilchos Shabbos* and *Chametz U'Matzah* as well. All over it means what the term normally means—non-Jew. That is why he must specify in these *halachos* the term is used differently. In the same *halachah* he explains that the term אסור will have a special meaning in this chapter as well.¹¹⁹

Dr. Shapiro devotes several pages (65–68) to the “famous” case of the contradiction as to whether the prohibition against בשר חיה¹²⁰ is Rabbinic or Torah law. The resolution is clear. With the help of manuscripts and other sources in *Rishonim*, we can clearly see that Rambam changed his mind and the old opinion remained in the place where the law is brought tangentially. This is brought as the culmination of what is “not acceptable to most traditionalists.” Yet all of this with all the sources is detailed in the *Shinui Nuschaos* and

¹¹⁸ The *mekoros v'tziyunim* is often even more useful than the *maftei'ach*.

¹¹⁹ He does things like this elsewhere, such as in *Hilchos Shabbos* 1:2–3 where he explains what חייב and פטור will mean in *Hilchos Shabbos* alone.

¹²⁰ The meat of a non-domesticated animal mixed with milk.

*Maftai'ach*¹²¹ of Frankel. (I myself heard it almost forty years ago in a RIETS *semichah shiur*.) In this section and the last, I have dealt with all but one example Dr. Shapiro gives in his section “Old Questions, Modern Answers.” In each case, the early traditionalists either handled the problem the same way as Dr. Shapiro suggests, or the question of the academic was asked in error, or the later traditionalists, now having the information available to academics, handled it exactly as Dr. Shapiro calls on the academics to do. As we noted above, he has created a straw-traditionalist. As *girsas* became available, the traditionalists latched on to the tools that became available.¹²² The only difference is that academics will blame Rambam for “careless and incomplete editing,” and “know” that it must be Rambam’s fault, while traditionalists do not attribute blame to Rambam.

Traditionalist Methodology

There remains only one contradiction in this section, where Dr. Shapiro’s belief that academics have the upper hand in providing a solution (pp. 61–65) has not been addressed. Twice Rambam tells us that although הקטר אברים¹²³ is allowed all night, the Rabbis made a *takanah* to stop at midnight. Yet with regard to sacrificing the *korban Pesach* Rambam states (*Hilchos Korban Pesach* 1:8) that the whole night is available. Let me state immediately that traditionalists suggest a simple answer, that with regard to *korban Pesach* this Rabbinic limitation was not legislated. Since there were so many sacrifices that needed to be consumed, they didn’t institute the prohibition here. The *Aruch HaShulchan* suggests this. Dr. Shapiro chooses not to quote this answer—but it is worth noting that the traditionalists were not pressed against the wall with this question. Dr. Shapiro feels that the difficulty is so great that the only reasonable answer is that there is

¹²¹ See the *Shinui Nuschaos* in the back in *Hil. Maachalos Assuros* 9:3–4 and *Mamrim* 2:9 and the *maftai'ach* to *Hil. Mamrim*.

¹²² Rav Kasher, Rav Kappach, Rav Menachem Krakowski of the *Avodas HaMelech* were amongst the traditionalists who made special efforts in this area.

¹²³ Sacrificing the limbs of an animal.

carelessness or a changed¹²⁴ position that was not corrected in all places. But the traditionalists like Or Samei'ach and Aruch HaShulchan himself, who had a decent answer, insist on giving an answer that Dr. Shapiro considers unacceptable. Rambam is merely talking about the Torah law in *Hil. Korban Pesach*, and the reader can go to the other sources to find the Rabbinic restriction. Dr. Shapiro ridicules this approach and cites Chazon Ish ridiculing similar approaches by R. Chaim Brisker.¹²⁵

Let me cite Dr. Shapiro's lengthy condemnation (p. 62) "That this is unsatisfactory hardly needs to be stated. After all, we are discussing a law code; if it says one can do something until dawn then that is what the reader assumes the halakhah to be. The notion that Maimonides expects the reader to know that this passage does not record the actual halakhah as practice, but rather a "pure" biblical perspective is hardly tenable. His purpose was not to confuse the reader¹²⁶ ... If Maimonides wanted to note the biblical law and how it was adjusted by the Sages, he could have easily done so in *Korban Pesach* as he in fact did in *Ma'aseh ha-Korbanot*, ... would not such an approach make a mockery of Maimonides' careful editing, since it would mean that at any time there is a secondary halakhah there is no reason for Maimonides to cite it accurately?... Why would Maimonides diverge from the halakhah here, as it would have been just as easy to record the correct practice?" I feel that the arguments of this paragraph demonstrate academia's failure to fully understand what *Mishneh Torah* does and what *Brisk* explains.

Before we look at the *halachah* in question, it is important to understand what *Mishneh Torah* is. It is, as Rambam explains,¹²⁷ 1) a collection of all Talmudic decisions, 2) organized according to conceptual principles.

¹²⁴ This is very unlikely. Rambam would have no reason to ever think the *takanah* of the Mishnah was a subject of dispute, just because Rashi learns the Mishnah differently.

¹²⁵ Bais Yosef also comes into criticism here in his claim that in secondary places the language is not that exact.

¹²⁶ Here he cites the introduction to *Mishneh Torah* as proof. I leave out some lines for brevity. But a reader who is weighing all the material should certainly read what I have omitted and feel is irrelevant.

¹²⁷ See introductions to *Sefer HaMitzvos* and *Mishneh Torah*.

1) Rambam, to a large degree, uses the actual language of the statements of *Chazal*, preserving the exact Hebrew of the Mishnah and translating the Aramaic of the Gemara. Dr. Shapiro seems to ridicule the idea that Rambam's language should be analyzed as acutely as the Mishnah. As noted earlier, there is no reason for this ridicule. Sometimes, Rambam is just quoting the Mishnah, so why should it not be analyzed as closely. I also do not know if he means to imply that only the Mishnah deserves such scrutiny, to the exclusion of the Gemara. Rambam's quotations from the Gemara must also be carefully weighed according to traditionalists, just as they are *קדקדק* in the Gemara itself. If Rambam diverges from the language of the Talmud, it is possible that he had a different text of the Talmud, and this calls for additional scrutiny. As we have previously noted, why Dr. Shapiro assumes a divergence from the Talmudic text is a sign that Rambam quoted inaccurately from memory, is baffling to the traditionalist.

Moreover, as previously noted, Rambam testifies how he checked with the most accurate texts—checking several manuscripts in his writing of *Mishneh Torah*. How does this possibly jive with Dr. Shapiro's assertion that he quoted from memory inaccurately? Rambam was not sitting at a typewriter with a pencil between his teeth, rattling off line after line to beat a deadline, too pressed for time and too confident to look up the sources. Over the ten or so years he worked on this *sefer* he picked each word¹²⁸ carefully, evaluating the varying *girsas* before him as he carefully structured his work.¹²⁹

2) Rambam explains in his introduction to *Sefer HaMitzvos* that his outline for organizing this material is the *Taryag Mitzvos*. Each *mitzvah* is a unique concept, and all the details in *Shas* were arranged around these concepts and listed and explained in the thousand chapters of his book.¹³⁰ Rambam's concern is not to write a law book, where one can look up what to do for a particular situation. Thumbing through

¹²⁸ We noted an example earlier, confirmed in a *teshuvah* (see *Iggros HaRambam*, Shilat, p. 444) where he explains that he gathered sources from all over *Shas* to construct one chapter.

¹²⁹ See introduction to Kappach's *Perush HaMishnah* (p. 15) where Kappach claims to have ascertained from material discovered in the *Genizah*, that Rambam always made rough drafts and perfected his work before issuing a final draft.

¹³⁰ In addition, the six (approximately) rabbinic *mitzvos* are detailed.

the “table of contents” of *Mishneh Torah* will leave many a searcher for a particular *halachah l’maaseh* high and dry. Bais Yosef points out¹³¹ that Rambam’s requirements for the placement of a bed¹³² had been ignored in *halachah*. Since it was described in *Hilchos Bais HaBechirah* (7:1–10) almost no one was aware of it. The *halachah* is placed there, since it is a function of the Biblical *mitzvah* of מורא המקדש which demands of one to demonstrate the proper respect while in the *Bais HaMikdash*. Rambam follows the initial description of this requirement with one’s obligations when in the proximity of the *Mikdash* and while facing it. Then he explains that there is a law of respect to the place of the *Mikdash* even when the *Mikdash* has been destroyed. Then he explains that every Jew, wherever he is and in every era, is required to demonstrate his constant consciousness of and *yirah* for the *Mikdash* by the position in which he sleeps and relieves himself. It is a rare mind that is able to organize material in this way—not practically, but abstractly and conceptually. The *Brisker* methodology consists essentially of looking at any detail of a law, and deciding under which halachic principle it should be categorized. The *Briskers* are merely following the approach of their teacher—Rambam—and those trained to think in this way are the most accurate interpreters of Rambam’s intent.

Let us now turn to the *halachah* under discussion. The Rambam in *Hilchos Maaseh HaKorbanos* (4:2) reads:

ב כל שקרבו מתיריו ביום, מעלין אותו על המזבח כל הלילה. כיצד:
זבחים שנזרק דמם ביום—מקטירין אימוריהן בלילה, עד שיעלה עמוד
השחר; וכן אברי העולות—מקטירין אותן בלילה, עד שיעלה עמוד
השחר. וכדי להרחיק מן הפשיעה, אמרו חכמים, שאין מקטירין האימורין
ואברי העולה, אלא עד חצות הלילה.
ג אף על פי שמותר להקטיר אימורין ואברים בלילה, אין מאחרין אותן
לדעת, אלא משתדלין להקטיר הכול ביום; חביבה מצוה בשעתה: שהרי
הקטר אימורין ואברים—אף על פי שכשרים בלילה—דוחין את השבת
בזמנן, ואין מאחרין אותן למוצאי שבת.

Hilchos Ma'aseh HaKorbanos, as its name suggests, is dedicated to detailing the various types of sacrifices and the procedures involved

¹³¹ *Orach Chaim* 3.

¹³² Not between east and west, whether one is sleeping together with his wife or alone.

in each. Thus the above *halachah* is structured to reflect the law that the *braissa* in *Menachos* (26a) deduces from the explicit Torah verse (*Vayikra* 6:2) על מוקדה כל הלילה. The Mishnah in *Berachos* (2a) details this law as well, there explaining that here as well as elsewhere, the Rabbis had shortened to midnight the time for performing *mitzvos* that according to Torah law can be performed all night. The fact that this principle applies to *korban Pesach* as well is to be inferred when later in *Hil. Maaseh HaKorbanos* (9:25) Rambam lists, together with other sacrifices that are a breed of שלמים, the law that the *korban Pesach* has הקטרה. The time for this הקטרה, without saying, is of course until midnight, as he has explained five chapters earlier.

There is in fact no reason for Rambam to tell me anywhere else until when the הקטרה of the *korban Pesach* or any other sacrifice is to be done. The *halachah* of the Talmud has been properly catalogued. However, Rambam constructed *Hilchos Temidim U'Mussafin*, which is dedicated to listing the order of the public sacrifices (קרבתות צבור) in the *Mikdash* and in the detailing of the order based on *Pesachim* 58b–59a. For the sake of completeness, he mentions the laws of הקטרה there, and upon doing so records (*Hil. Temidim* 1:6) that it is to be done only until midnight, for the entire purpose of these *halachos* is to give the proper order—and certainly in order (סדר), the slot of this הקטרה must be properly defined. In *Hilchos Korban Pesach* itself, Rambam lists the order of all the events and merely tells me (1:14) ומקטירין על המזבח. There is no need to tell me that this can go on into the night if necessary, but Rabbinically must stop at midnight. So why does Rambam bother to mention the details of this law at all?

Let us look at the *halachah* in *Hil. Korban Pesach* (1:8). Actually, let's start a little early:

המניח אימורין, ולא הקטירין עד שלנו ונפסלו בלינה—הרי זה עובר בלא תעשה, שנאמר "ולא ילין חלב חגי, עד בוקר" (שמות כג, יח). ואף על פי שעבר, אינו לוקה—לפי שאין בו מעשה.
מקטירין חלבי פסחים כל הלילה, עד שיעלה עמוד השחר. במה דברים אמורים, בשחל ארבעה עשר להיות בשבת—שהרי חלבי שבת, קרבין ביום טוב; אבל אם חל ארבעה עשר להיות בחול, אין מקטירין חלבי חול ביום טוב.

A Torah law regarding הקטר אימורין that is unique to *korban Pesach* is recorded first. A negative command (לאו) is violated if the innards (אימורין) are not burned before the end of the night. The *mikra* states

this explicitly, and the *mechilta* records it as law and thus so does Rambam. Then follows our law, but in the strangest of formats. First we are told that we sacrifice the אימורין all night. But then we are told “When was this said?” – only in the rare case where the 14th falls on Shabbos. This is because the principle that allows sacrificing on Yom Tov applies only if the sacrifice itself is a Shabbos sacrifice.¹³³ What a convoluted way to state a law! First he states it as a universal principle and then in the next breath limits it to a rare case!¹³⁴ But Rambam is merely echoing the presentation of the Gemara itself (*Pesachim* 59b) which sets the verse that implies that הקטרה is permitted all night against another verse that teaches that only Shabbos innards can be sacrificed on Yom Tov, and thus concludes that the Torah verse is only speaking about when the 14th came out on Shabbos. What is important to understand is that here Rambam is presenting a novel new law of the Talmud. First he presents the principle that הקטר אימורין of *korban Pesach* is like no other הקטר אימורין: if not completed by night’s end, there is a specific Torah violation—לא ילין לבקר זבה הג הפסה. Then he tells us what the Talmud derives further from its analysis of this verse, i.e., that *korban Pesach* is to be sacrificed throughout the night. Even though invariably the night is Yom Tov and usually the 14th is a weekday, nevertheless the Torah made clear that the prohibitions related to this לא never start until morning, and it is this principle of the Talmud that Rambam is recording, and also he is recording that innately the time for הקטרת אימורין is the entire night, כל הלילה—and that is why he states the principle unequivocally. He then follows, by explaining that another principle of עולה שבת בשבתו precludes the הקטרה through the night unless the 14th itself is a Shabbos. To discuss the issue of the Rabbinic decree of midnight at this point, would not only confuse matters, but would be superfluous and totally out of place. This is what many early and late commentators understood and did not explain in detail, for this type of issue arises constantly, and as we have seen, explaining the details is long and laborious. They must thus rely on assuming that those attuned to Rambam’s methodology will understand—המבין יבין.

¹³³ All also codified appropriately in abbreviated form in *Hilchos Temidim* 1:8.

¹³⁴ This is not an uncommon feature in Rambam’s presentation, and one can apply what we say here to many cases.

Similarly, it is perhaps a lack of sufficient sensitivity to the nature of *Mishneh Torah* that causes academics to see contradictions between *teshuvos* and *Mishneh Torah* where there are none. Rambam in *Mishneh Torah* (*Hil. Tefillah* 12:23)¹³⁵ quotes the Gemara that אין קוראין בחומשין משום כבוד הציבור, בבתי כנסיות, while in a *teshuvah*¹³⁶ he explains that this is only ideally (לכתחלה), but if no *Sefer Torah* can be found we read with a ברכה even by heart. He explains there that the Gemara thus gave the reason of כבוד הציבור since this makes it obvious that when there is no other alternative (בדיעבד) it can be done. As he explains in his introduction and in a *teshuvah* (*Shilat*, p. 444), in *Mishneh Torah* his goal is to collect and report what *Chazal* say explicitly. Upon being asked for elucidation he explains what can be easily deduced from the words of *Chazal*. *Kesef Mishneh* (*Sefer Torah* 10:1) explains this very point, stating that there is no contradiction, and yet Dr. Shapiro does not inform his readers of this.¹³⁷

While Dr. Shapiro quotes (p. 68) Prof. Twersky's opinion about studying *Mishneh Torah* in the context of all of Rambam's writings, he does not quote the famous statement of one of the primary recent traditionalists, the *Or Samei'ach*, who said: רוח אחת לרבינו בכל ספריו. Both Rav Meir Simchah and the Rogatchover would answer difficulties in *Mishneh Torah* based on understandings they got from *Moreh Nevuchim*. How strange it is for Dr. Shapiro to quote (p. 274) J. J. Neubauer¹³⁸: "the idea of explaining Maimonides in accordance with

¹³⁵ Dr. Shapiro quotes a less complete and clear source, *Hil. Sefer Torah* 10:1.

¹³⁶ Blau, n. 294.

¹³⁷ In the text accompanied by note 288 he claims another contradiction as to whether singing can be done if not accompanied by wine. The *teshuvah* (Blau, n. 224) does not explicitly contradict the *halachah* in *Mishneh Torah* (*Taanis* 5:14) since the *Geonim* only permitted תשבחות on wine and it's not clear Rambam prohibited that. Even if we assume Rambam prohibited that as well in the *teshuvah*, there is only a contradiction if we assume Rambam had decided the law in accordance with the *Geonim*, but in fact he never says that the law is like the *Geonim*. Rambam sometimes quotes the *Geonim's* opinion after saying the law differently. The implication in all these cases is that he disagrees with what the *Geonim* have established as practice.

¹³⁸ He writes this in the context of discussing the various explanations of *Divrei Sofrim*. The implication is that if we study Rambam's other works

Maimonides himself, remained foreign to the authors, the halakhic authorities.” While well aware that Rambam could change his mind over time, his students assumed consistency in his thought and were rewarded with great insights.

Anti-Brisk Bias

Dr. Shapiro’s real scorn is reserved for *Brisk*. He claims that *Brisk* has “always” been “ahistorical” in its approach.¹³⁹ What a bold claim. He uses the words of Chazon Ish¹⁴⁰ and R. Yehiel Weinberg¹⁴¹ to prove this. Yet the fact that most serious Torah study is influenced by this approach is given no weight. If we are studying methodology of Rambam interpretation, why not quote what *Briskers* have to say about the methodology of study of the Chazon Ish?¹⁴² The deeper

it is obvious how to interpret this term. I have studied the *Sefer HaMitzvos*, *Perush HaMishnah*, and many references in *Mishneh Torah* and remain unclear on the exact definition.

¹³⁹ In note 300 he substantiates his claims by references to a few recent articles. One would think the dismissal of the dominant force in the Torah world would deserve more.

¹⁴⁰ It is quite amazing that Chazon Ish should be his ally in accusations of being ahistorical. Even traditionalists know that it is the Chazon Ish who calls for *halachah* to be determined ahistorically, as it is clear from his *Iggros*.

¹⁴¹ And some lesser known figure, R. Yaakov Avigdor, in n. 302.

¹⁴² The Chazon Ish, of course, would turn to *Teshuvos Chachmei Lunel* to answer the Rambam that Rav Chaim answered otherwise as Dr. Shapiro writes (n. 301), but Briskers would argue that this is because he did not fully understand the method of thought of Rav Chaim or the Rambam. When a noted *talmid* of the Brisker Rav would give a *shiur* answering the Chazon Ish’s questions on Rav Chaim, his point would be to show that the questions are based on a lack of a full understanding of what Rav Chaim meant. I wonder if Dr. Shapiro knows that very few people understand what Rav Chaim was saying in most of the articles in his *chibbur*, and the fact that there are strong questions launched on his writing there is to be expected. See the introduction to Rav Chaim’s *chibbur* where it is explained that this is not a *sefer* like other *sefarim*. The abstractness of what he is saying there is rarely deciphered. We know Rav Chaim and his methodology from what his students re-

minds, the “best heads” in all *yeshivos* generally turn to the *Brisker* method.¹⁴³

In Dr. Shapiro’s ridicule of Brisk, he leaves out one name—the greatest proponent of this mode of study in the history of American Jewry and perhaps its greatest proponent in the twentieth century—*Mori V’Rebbi* Rav Yosef Dov Soloveitchik, ז”ל. It is strange that the Rav did not also come in for ridicule. Nor does Dr. Shapiro even mention him in these 85 pages of analysis of Rambam and his interpreters. Would not the Rav, whose training combined *Brisk* and Berlin, be capable of discerning the proper means of studying *Mishneh Torah*? Apparently not. Let’s have a quote from the Hebrew section, quotes from Rav Weinberg, “I read the *ma’amar* by the¹⁴⁴ G”RYD Soloveitchik on his uncle the G”RIZ, ז”ל. The language is beautiful... but the content is vastly exaggerated. This is the way people of a cult write, like the members of Chabad and the *Baalei Mussar*.¹⁴⁵ From his *ma’amar* you get the impression that the Torah was not given through *Moshe Rabbeinu*, G-d forbid, but Rav Chaim Brisker, ז”ל. It’s true that Rav Chaim spread a new spirit of *pilpul* via analysis (הגיון) into the *yeshivos*. In analysis everyone can take part, and therefore everyone can create their own *chiddushim* (creative solutions) through this method, unlike with the approach of Rebbe Akiva Eiger and the Shach where one must be a great בקי (knowledgeable in a wide range of sources) in order to have any sharpness. Therefore, all the men of the *yeshivos*, in their desire to be *mechadshim*, elevate Rav Chaim over all the *Geonim* who preceded him. I once asked the G”RYD when he was in Berlin, ‘Who was greater, the GRA of Vilna or Rav Chaim Brisker?’ He answered, ‘With regard to understanding, R. Chaim was even greater than the GRA.’ But such is not the case. The GRA sought the simple truth, and not R. Chaim. His analysis and logic do not fit into the language of the Gemara or the Rambam.”¹⁴⁶ So let’s be quite clear: if we side with Rav Weinberg and

cord of his Torah, and from the crystal-clear writing of his son and the thorough analyses of Rav Isser Zalman.

¹⁴³ There are long waiting lines to go to learn in the elite Brisk Yeshivah.

¹⁴⁴ The Rav.

¹⁴⁵ Interesting that he lumps them together.

¹⁴⁶ The quote ends with: “Rav Chaim was a new Rambam himself but not an interpreter of the Rambam. So I said to R. Moshe, ז”ל, the father of the G”RYD, *sblita*.” I don’t know how this fits with what R. Weinberg

Chazon Ish, the Rav is also delusional, and his Torah, I guess, would be (*chas v'shalom*) nonsense.¹⁴⁷

Interestingly, the Rav, an academic of the highest standing, rarely avails himself of the methodology so elevated here. His approach would certainly fit into the hagiographic category.¹⁴⁸ Why is this so? Why did he not seem to give much credence to the pedigree of a *girsas*? Apparently he felt that the methodology used by *Rishonim* in analyzing Talmudic texts is the method that we should use: weighing the apparent reliability of the *girsas* based on its source against the logical reliability of the *girsas*. In fact, the more difficult *girsas* is likely to be correct, since busy hands are likely to “correct” a *girsas* that conflicts with what has been accepted. The availability of more *girsas* in the Rambam is a great aid in ascertaining the correct meaning; however, it does not simplify the student’s work, but makes it more demanding and difficult.¹⁴⁹

Since Dr. Shapiro does not feel it worthwhile to discuss the views of those considered the greatest minds of the last century, but finds those noted primarily for their *בקיאות* and a practical “straightforward” approach as being greater barometers of truth, I will quote only one comment about *Brisk* from the mouth of Rav Chaim according to a report in Rav Kaminetsky’s *Making of a Gadol*.¹⁵⁰ Rav Chaim was asked to compare his approach to that of Rebbe Akiva

wrote a line earlier. He said R. Chaim’s language does not fit—not only with the Rambam, but not with the Gemara, either. How does that allow for validating R. Chaim’s Torah at all? See pp. 74–75 for what Dr. Shapiro selectively chooses to quote of Rav Weinberg’s statement on this issue.

¹⁴⁷ We can suspect that the Chazon Ish felt so. Two articles in the collection of the Rav’s articles *Kovetz Chiddushei Torah* (pp. 66–78) deal with a difficult question that the ר"ש said of *יכול לישובו*. The Rav as a young man published his answer with the first article and the second is a response to a criticism that came from the circle of the Chazon Ish. The report that I had heard, was that it was said in that circle that indeed there is no אדם who can answer it but it could be answered....

¹⁴⁸ See the aforementioned letter.

¹⁴⁹ One will often find that the correct *girsas* is some commonly rejected text that never makes it to the front page of *girsas* because it seems out of place.

¹⁵⁰ P. 417.

Eiger. Rav Chaim¹⁵¹ responded that “Rebbe Akiva Eiger teaches you what is good, whereas I teach what is not good [i.e., what to avoid].” Indeed, the analysis of *Brisk* is found in the words of the *Risbonim* and in many a Bais Yosef and Shach. But where other *Acharonim* sometimes resort to *pilpulim* and the imposition of principles that are applicable elsewhere forced into situations where they do not belong, the *Briskers* consistently—as did Rambam, and *Chazal*—merely insist on clarifying the definitions of the *Taryag Mitzvos*—each unique, each with its own conceptual underpinnings. Indeed, this approach can be easy and attractive to all the “men of the yeshivah,” as Rav Weinberg says, so why look for complicated rules and strings of deductions that only a *בקי* can do in order to explain Rambam when he himself said he wrote it “so that all its laws are discernible to the great and the small” — עד שיהיו כל הדינים גלויין לקטן ולגדול.

*Teshuvos L’Chachmei Lunel*¹⁵²

Dr. Shapiro writes (p. 69) of traditionalists who have chosen Rambam’s original formulation over his latter change of heart. These same traditionalists chose explanations contrary to what Rambam himself explains in *teshuvos*. As Dr. Shapiro presents it, our greatest scholars seem somewhat comical in their approach. We have all heard the joke of the *Litvak* who comes to heaven and asks to talk to Rambam. Upon suggesting a *lomdishe pshat* (erudite and abstract explanation) in a difficult Rambam and being told that his answer is wrong and the real answer is really simple, the *Litvak* retorts, “What does a *Sefardi* know about learning a Rambam?” I believe that Dr. Shapiro is winking this joke at us. He does not note that the attitude he finds is uniformly in connection to the changes that were presented in the

¹⁵¹ Dr. Shapiro doubts that Rav Chaim knew the Ibn Ezra on *Chumash* but does not explain why. On the contrary, Rav Chaim was a man of tremendous intellectual curiosity. The family claims that he was expert in *Moreh Nevuchim* and at least one quote by his son substantiates this. While a report says the G”RIZ also knew the *Moreh Nevuchim*, several of his statements in his *chibbur* on *Chumash* suggest otherwise.

¹⁵² I know that here I give an academic an opening for saying that here the hagiographer truly reveals himself, since even few traditionalists are willing to challenge these *teshuvos*, but this discourse should be started.

Teshuvos L'Chachmei Lunel.¹⁵³ He ignores the pattern that he himself has clearly delineated; it is exclusively the logic presented in these *teshuvos* to *Chachmei Lunel* that have consistently been rejected. Dr. Shapiro gets repeated mileage (p. 54) out of *Nizkei Mammon* 4:4 where indeed commentaries do give better reasons than Rambam gave in his *teshuvah*. A list that Rav Reuven Margolis (n. 227)¹⁵⁴ cites of *Acharonim* with better reasons than Rambam are, except for one, all from Lunel. The folly of Chasam Sofer and Degel Reuven is with regard to these *teshuvos* as well.¹⁵⁵

As noted earlier, if one assumes, as all academics do, that these *teshuvos* are authentic, then one can still argue logically that they not be accepted, because Rambam tells us that in his old age he is forgetful. According to the schedule he details to Ibn Tibbon,¹⁵⁶ he had no time for learning in these late years and was so pressed for time, he wrote letters while standing in the hall. Considering how fallible academics insist on considering him, logic would call for us to choose the positions he took while writing *Mishneh Torah*—while he was in learning—especially when these positions seem best supported by the Talmudic sources. Moreover, one studying these *teshuvos* sees that the earlier positions are more consistent with other *halachos* in *Mishneh Torah* than the new ones. They should not be given primacy, for in

¹⁵³ See n. 282. The questions asked to Rashba (1:4–7) are not relevant. Rashba is deciding on his own what the Talmudic law should be like. He does not feel bound by Rambam's decision. Also, Rav Sternbuch's reports should not be treated as totally reliable. See letters to the editor in *Hakirah* 4 where Dr. Shapiro relies on a report from R. Sternbuch about Rav Chaim's position on *metzitzah b'peh* and Dr. Sprecher notes the unlikely nature of the report's veracity. See also *Hakirah* 2, "U-Madua Lo Yeresem" with regard to R. Sternbuch's *hasbkafah*.

¹⁵⁴ Also see beginning of our section, "Forgetfulness and Carelessness."

¹⁵⁵ And in n. 228, the Korban Nesanel's finding of a missing source is from a *teshuvah* to Lunel. The case from *Pnei Yehoshua* (*Kesuvos* 35b) is also from Lunel, though the language I found differs from what was quoted. He in fact says he doesn't see what the difficulty is and has simple answers but does not elaborate since Rambam said otherwise. There *Pnei Yehoshua* adds *אלא שלשונו מגומגום מאד וצריך תקון*.

¹⁵⁶ In the famous *teshuvah* written around this time, Shilat ed., p. 511ff.

fact if Rambam wrote them, Rambam¹⁵⁷ was no longer himself when he did so.

Rav Chaim Brisker,¹⁵⁸ as is noted, did not “like” these *teshuvos*. The Chasam Sofer did not trust them, either (n. 295). Dr. Shapiro links their displeasure to the nature of these *teshuvos*—“short non-analytic answers.” This is not the case. Indeed, Rambam often gives short answers; sometimes his signature is longer than the answer. Sometimes one can feel the impatience in his writing, as if he did not suffer fools gladly. The problem here is when he writes longer. Indeed it is here that he speaks of having made mistakes and of changes of mind, and it is from here that a false impression of Rambam was formed, as Rav Kappach states.¹⁵⁹

As Dr. Shapiro tells us, as early as the Tashbetz there was concern that *teshuvos* attributed to Rambam are not authentic. Considering that we have *sefarim* with such names as *Teshuvos HaRashba HaMyuchasos LaRamban*,¹⁶⁰ this is obviously a concern, and errant attributions can certainly happen by mistake. With regard to Rambam, especially, however, there is another concern—of forgery. Shilat’s *Iggros HaRambam* has a section of forgeries or wrongly attributed letters and another section of possible misattributions and forgeries. With someone as influential as Rambam, there could be a host of reasons for forgery and purposeful misattribution. Bais Yosef is thus quoted (n. 308) as saying that when a *teshuva* in the name of a great man seems illogical,¹⁶¹ we can claim that the man never said it. Following this approach, and in the footsteps of another Yemenite scholar,¹⁶² Rav Kappach claims all of the *Teshuvos L’Chachmei Lunel* are forgeries.

While Dr. Shapiro claims Kappach has “no real proof,” he feels that the evidence to their authenticity is unquestionable. Yet he brings one piece of evidence which “alone is certainly sufficient to squelch even the most ingenious objections,” which is the fact that R. Avraham discusses a number of these responsa. Rav Kappach was

¹⁵⁷ As Rabbi Dr. Shmuel Boylan suggested to me on the issue: “Perhaps Rambam was no longer Rambam.”

¹⁵⁸ Or his son Rav Moshe, or both according to Dr. Shapiro’s sources, or Rav Moshe’s son, the Rav, as I had heard.

¹⁵⁹ *Kesavim*, p. 643ff.

¹⁶⁰ Actual *teshuvos* of Rashba that had originally been attributed to Ramban.

¹⁶¹ אין הדעת נוחה הימנו.

¹⁶² R. Yachya al Abyad (1864–1935).

well aware of this, but his objections were not squelched. And if this is the best proof, it would seem the case is weak. As we have noted before,¹⁶³ the author says that he believes R. Avraham must be regarded as the most authoritative “halakhic interpreter” of Rambam although he immediately notes that R. Avraham is not infallible, referring to a perceived error on R. Avraham’s part. He does not explain why he should be judged as such, considering that R. Avraham was at most nineteen when his father died. Although he was, of course, one of our greatest scholars, why should we consider him authoritative regarding his father’s views, except when he says he heard something from his father? And even then, do we know how old he was when he heard it? Is the testimony of a child (קטון) reliable?¹⁶⁴ The fact that he defended Rambam’s *teshuvas*¹⁶⁵ proves nothing. It was widely accepted, after Rambam’s death, that these *teshuvas* were authentic, and he could have been tricked as others were, and subsequently felt bound to defend them. All that there is proof to is that the questions were sent to Rambam and received by him and that it was believed that these are the answers Rambam had sent. On the other hand, it has also been proven¹⁶⁶ that Rambam certainly did not respond for a long time. It is very possible that forged letters reached the hands of *Chachmei Lunel*. It is possible, as well, that Rambam wrote answers to *Lunel*, but these are not those responses. Rav Kappach’s argument¹⁶⁷ is that these words could not have come from Rambam’s pen.

Rav Yosef Kappach,¹⁶⁸ who spent countless hours studying every word that Rambam ever wrote, tells us these are forgeries, and we are supposed to laugh at his claim. He is backed by Rav Chaim Brisker,

¹⁶³ See also n. 292.

¹⁶⁴ Also, why does Dr. Shapiro limit his authority to “halakhic interpreter”? Is this because his *hashkafah* is perceived as being substantially different from his father’s? What about areas where *halachah* and *hashkafah* intersect, such as *tefillah*; can we trust his judgment there? Only a study of R. Avraham’s analysis of his father’s opinions can determine if he is the “most authoritative halakhic interpreter” of his father.

¹⁶⁵ And how well he did so also needs to be evaluated.

¹⁶⁶ See Shilat’s edition on these *teshuvas*, pp. 591–597.

¹⁶⁷ *Kesavim*, *ibid.*

¹⁶⁸ He is praised by Dr. Shapiro in the introduction of this book and he includes three of his letters in the Hebrew section.

the GRA, the Chasam Sofer, and other *Acharonim* mentioned above in the belief that at least some of these *teshuvos* are not from Rambam—or at least do not reflect his true view—and yet this is to mean nothing. Dr. Shapiro says Kappach brings no real proof, yet he brings his own “proof” from the fact that the words¹⁶⁹ "ישע יקרב" is found at the conclusion of this and two other letters to Provence. But the fact that Rav Kappach says that the Hebrew used is poor and the sentences badly constructed in contrast to Rambam’s normal beautiful Hebrew should be ignored. Rav Kappach writes his proofs regarding eight of the *teshuvos*. But let us look at just part¹⁷⁰ of one.¹⁷¹ Rambam is asked about the order of the *parshiyos* of *tefillin*, which in *Mishneh Torah* is כסדרן,¹⁷² and conflicts with those of Provence, which have הוויות באמצע.¹⁷³ When asked about this in another *teshuvah*,¹⁷⁴ he responds in a few words that his stated order is correct as the Talmudic source implies. That is his normal approach. Here, he says he also used to do as they did when he was in Spain, but upon coming to the East he learned better. He abandoned the *mesorah* of his father, because he received reliable testimony that people had opened Rav Hai’s *tefillin* and found them to be כסדרן. That Rambam would believe this testimony 150 years after Rav Hai’s death is preposterous. That Rambam would have decided based on what Rav Hai did and not based on Talmudic sources,¹⁷⁵ is also not believable. That Rav Hai’s *tefillin* were actually כסדרן is not believable, for it was widespread

¹⁶⁹ He claims that Kappach says the one to Montpellier was forged. This is only Rav Shilat’s report of Kappach’s belief and not anything Kappach committed himself to. (See Shilat p. 476, n. 6). In any event, the forger may very well have had knowledge about Rambam’s style from having seen other things Rambam wrote.

¹⁷⁰ The second half of this *teshuvah* provides even more evidence that Rambam is not the author. But I will not be giving even the full evidence provided in this first part.

¹⁷¹ This *teshuvah* is picked, for though I have long distrusted these *teshuvos*, I have only begun to investigate them thoroughly and started with this one.

¹⁷² The *parshiyos* in their order in the Torah, as Rashi contends.

¹⁷³ The two *parshiyos* ודיה in the middle. We can assume they did as the Rabad, not *Rabbeinu Tam*.

¹⁷⁴ See Blau ed., n. 139.

¹⁷⁵ Or that he would trust this *mesorah* over his own.

amongst all *Rishonim* that Rav Hai was the proponent of הוויית באמצע.¹⁷⁶ Rambam then bolsters his position by saying that R. Moshe Deri also changed from הוויית באמצע to כסדרן upon coming from West to East. Rambam never cares or quotes what anyone does,¹⁷⁷ but most particularly not a person no one has heard of. The only knowledge we have of Rav Moshe Deri is as a false messiah.¹⁷⁸ There is much more wrong with this *teshuvah*, but this is not the place to discuss it all. How can scholars say there is no reason to doubt these *teshuvos*?

I cannot leave this topic without noting what I have pointed out elsewhere,¹⁷⁹ that it is highly implausible that Rambam would ever say, as he is famously quoted in writing in these letters' introduction, that his study of philosophy and the sciences had only been for the purpose of being a handmaiden to Torah. To Rambam it is indispensable to man's purpose of Knowledge of G-d. He would not blame it for his errors in the details of Talmudic law which he considers less important—דבר קטון – הוויית דאביי ורבא. Rambam's bizarre introduction¹⁸⁰ should be enough to convince any serious academic that something is amiss.

But more important than the points listed above, the Rav Chaims and the Rav Kappachs, who studied Rambam day and night in order to learn from him, knew that at least some of¹⁸¹ these *teshuvos* are not

¹⁷⁶ Because of this inconsistency, the *mekuballim* found support to claim that Rav Hai wore both Rashi and *Rabbeinu Tam tefillin*, and that this is what spiritual people must do—just another distortion that grew from this forgery.

¹⁷⁷ Except occasionally from a major *Gaon* like Rav Hai.

¹⁷⁸ In an apparent forged insert into *Iggeres Teiman*. Rav Shilat's defense of the possible authenticity of this section includes an untenable cleansing of Rav Deri from the accusation of גביא שקר. Whether or not the insert is authentic, still Rav Deri's reputation was apparently that of a false messiah—hardly the type of person for Rambam to cite.


¹⁷⁹ See *Hakirah* 6, pp. 237–238. And it has recently been pointed out to me that R. Dr. Norman Lam also questions this.

¹⁸⁰ This is not the only thing strange there.

¹⁸¹ My own theory, after some initial examination, is that there was a base that Rambam had written and that it was vastly expanded by someone who found Rambam's short and simple approach unacceptable. One familiar with the *teshuvos* will quickly understand the basis of this theory.

the Rambam talking. As the Bais Yosef tells us, the writing of a Rambam is recognizable to the students for whom he wrote. The academic community must first join that group of students before they can fully contribute to our knowledge of Rambam.

Conclusion – The Limits of Orthodox Scholarship

“A principle, indeed a *leitmotif* ... runs through traditional studies of the *Mishneh Torah* in recent centuries. This principle states that there is an answer for every perplexity. The possibility that Maimonides made a simple error, or that he overlooked a rabbinic passage—which entails bringing Maimonides down to the level of mere mortal—is not an operating principle. For the traditional commentator, exegesis of Maimonides would be impossible if this approach was adopted. Even if he acknowledged that in theory, Maimonides could have erred, he would also insist that errors are not the sort that his successors—who did not measure up to him—would be able to identify. Rather, the traditionalist commentator must struggle to find an answer, either by providing a new source or a new conceptualization of the halakhah in question. If, at the end of the day, the traditionalist commentator is unable to solve the problem, he acknowledges the difficulty but asserts that ‘if our rabbi [Maimonides] was before us, he would properly explain matters¹⁸²’ ” (p. 4). Well said, Dr. Shapiro. “Such a hagiographic approach is not likely to resonate in academic circles.” But indeed, the evidence proves it should. 

¹⁸² *She’elot u-Teshuvos Maharik* (Rav Yosef Kolon), n. 126.