

A RESPNSUM BY MAIMONIDES

Maimonides' Rational Approach to Halakhic Problems

INTRODUCTON

Maimonides' responsum to Joseph Ibn Gabir reflects his rational approach to halakhic questions. A resident of Baghdad, Ibn Gabir was exposed to the malicious criticism levelled against Maimonides by the head of the Talmudic Academy of Baghdad, Shmuel ben Ali. Fearful that the Great Code, the *Mishnah Torah*, by Maimonides would undermine the authority of the Gaonite, Shmuel ben Ali embarked upon a bitter campaign designed to discredit the credentials of Maimonides as a Talmudic scholar and as a pious Jew, accusing him of repudiating many religious doctrines, such as the belief in resurrection.

As an ardent admirer and staunch supporter of Maimonides, Ibn Gabir was determined to answer the objections of Shmuel ben Ali by challenging the latter's misrepresentations. But unfortunately he lacked the education and the skills to undertake this task. He knew no Hebrew and, consequently, was unable to study the *Mishnah Torah* which was written in Hebrew. He had studied the *Commentary on the Mishnah* in Arabic and was convinced that the challenge by the zealots of the halakhic competence of Maimonides was false. But he needed further documentation from the magnum opus of Maimonides, the *Mishnah Torah*, to prove his case. He thus proceeded to put his master several direct questions which agitated the minds of the Jews of Baghdad, hoping thereby to respond intelligently to the criticism directed against him and at the same time reveal the malicious motives of the critics.

The responsum by Maimonides was written in Cairo in 1191. It reflects the highest instincts of Maimonides, of combining rational insights with halakhic problems, and treating every question with a sense of forthrightness by examining alternatives to

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any supporting evidence of a given proposition before drawing a conclusion.

What follows is my translation of Maimonides' Responsum.

L. D. S.

MAIMONIDES' RESPONSUM TO JOSEPH IBN GABIR

I have placed the Lord before me always. The letter of the wise and cherished Mar known as Ibn Gabir has reached me. He describes himself as an ignorant man and laments his inability to read the work I composed in the Hebrew language, the *Mishnah Torah*. It is clear, however, from his epistle that he has a great enthusiasm for studying Torah, and that he occupies himself steadily in my *Commentary on the Mishnah*. He also mentions that he heard that some scholars in Baghdad (may the Lord protect them) are critical of some of my decisions, and requested that I reply in my own handwriting in order to help him with his studies. I hereby comply with his request.

First of all, I must tell you, may the Lord preserve and increase your welfare, that you are not justified to call yourself ignorant. You are my beloved pupil, and so are all those who are inclined to pursue zealously the study of Torah and attempt to understand even one biblical verse or a single halakhah. It makes also no difference whether one pursues his studies in the holy language or in Arabic or Aramaic, as long as one understands the issues involved. This applies especially to the commentaries and the summaries. The most important thing is to be involved in learning. But of one who neglects his studies, or who has never studied, it is said, "he has despised the word of the Lord" (Numbers 15: 31). This refers also to a man who fails to continue his studies even if he is a great scholar, for he thereby neglects the positive precept of advancing his learning which is the highest Commandment.

As for your own situation, I would suggest that you do not disparage yourself or abandon the prospect of achieving perfection. There are great scholars who commenced their learning at an advanced age and yet developed into distinguished scholars.

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It behooves you, therefore, to study the Hebrew text of the volume I composed. It is not difficult to understand, for it lends itself easily to study. And, in fact, if you master one part you will eventually be able to understand the whole work. Keep in mind, however, that I do not intend to produce an Arabic edition of the *Mishnah Torah*, as it would lose its specific flavor. Moreover, how can you ask me to do this when I hope to translate even my Arabic writings into the holy language. In any event, you are our brother, may the Lord guard you, lead you to perfection and grant you bliss in both worlds.

With regard to the allegation you heard that I deny in my work the resurrection of the dead, this is nothing more than a malicious slander. He who asserted this is either a wicked man who misrepresents my statements, or an ignorant one who does not understand my views of the hereafter (*Olam Habah*), and confuses it with resurrection. I have composed a special treatise on this subject which should reach you soon in order to obviate any further mistakes or doubts.

You mention further an objection made against my judgment, that the rite of circumcision we are commanded to observe is a Mosaic law rather than a tradition of Abraham. My opponents argue that, inasmuch, as on the occasion of that Commandment, the Lord made a thirteen-fold covenant with Abraham, we may assume that the obligation to observe the rite of circumcision dates back to Abraham. The argument is inadmissible and their alleged evidence demonstrates that they do not understand the very foundation of our religion. My judgment, I assure you, is correct without any doubt. Included in the six hundred thirteen precepts that were commanded at Sinai are the injunction of circumcision and the prohibition of the sinew which, although they existed in earlier times as recorded in Scriptures, have been in force as prescriptions only since the time of Moses. You might ask those blind people—who pretend to be seers and cite as evidence against me the thirteen-fold covenant with Abraham—to tell you if Abraham himself had perhaps written the thirteen-fold covenant with all the verses contained in that portion, and Moses simply copied them, as some people are wont to copy ancient works of another author, or whether the verses have

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been composed by Moses for the first time under inspiration? Whoever does not believe that these verses, together with the whole Torah, were composed by Moses under inspiration denies that the Torah is of Divine origin. How would one indeed know what was communicated to Abraham, were it not for the account communicated by Moses. Hence, the foundation and the injunction of that precept, as well as the thirteen-fold covenant stem from Moses. This matter is obvious except to those who do not possess the capacity to reflect and who do not concentrate on the roots of religion but on its branches. The Torah enjoined by Moses is in its totality a revelation of God. If it contains ancient laws, as the Noahide laws and the sign of the covenant, we are not bound by them because they were observed in ancient times but because of the later Sinaitic legislation vouchsafed exclusively to us.

You mention, also, that I am being accused of permitting the crossing on the Sabbath of streams where the waters are deep. Indeed this is surely permissible. And what you contend that some thought I had said that boundaries (*Tehumin*) are of rabbinic, rather than of biblical origin, it is important to note, that a similar complaint reached me from the head of the Yeshiva (may the Lord protect us), and I was similarly convinced that he was greatly mistaken and that he did not adequately scrutinize my work. Failing to understand the issues involved, he produced far-fetched arguments. At any rate, I have already answered him in a lengthy responsum (*Teshubot ha-Rambam* 126), which my students copied down as a discourse and it has been well publicized. With regard to the first question, you have undoubtedly received the answer and the proofs for permitting the crossing in streams on the Sabbath, as well as the second response concerning the arguments, questions and doubts raised about our position by the head of the Yeshiva. If further proof is required about our decision, then we might argue that only a doubt of rabbinical origin is involved which is always permissible.

You mention, further, an objection levelled against me for permitting a menstruant woman to sit in her house during the seven clean days. I am not sure what you mean by this phrase. If you refer to touching her husband even with her small finger,

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or partaking of food or drink from one vessel or performing any of the three customary chores, such as washing his face, hands or feet, making his bed in his presence and pouring his cup for him—all these acts are not permitted until the passage of seven days and the proper immersion in a ritual bath (*mikvah*) takes place. If you allude, however, to other household chores, such as kneading, cooking, touching clothes, spreading out a mat—these acts are permitted even during the days of the menstrual period. This is our custom which is followed in all our countries and in France. It is the law of the Talmud and it was the tradition of the people in Israel when we resided there. I found, however, that the people of Egypt were leaning toward the views of the heretics, by following the custom of the Karaites. Apparently, your people have also adopted the ways of the Egyptians and I am not prepared to enjoin you to abandon them, nor would I deceive you by enumerating additional safeguards and stricter separation for the menstruant. These are rules that are not really required obligations provided that the woman goes to the mikvah after counting seven clean days and scrubbing. But if it is your custom to observe these additional safeguards, such as not to touch money and not to step on certain things and then proceed to cleanse herself by simply washing at sunset without immersing in a mikvah, such practice is absolute heresy, not grounded in any tradition and should be avoided. Our people should be admonished to comply only with the laws of the Talmud as we ourselves have done in Egypt. When we discovered that a warning alone was insufficient, we issued a ban with Scrolls of the Law in all the synagogues—and recorded attestations on it in *Teshubot ha-Rambam* 149—that cursed be any woman who does not count seven clean days or abolishes immersion in the mikvah or simply washes her body like the Karaites do even with an immersion. We also informed them that it was permissible for them to touch clothes and foods. However, hold on to your custom. And, whoever wishes to be lenient in this matter may do so, and one who is inclined to be strict because of a strong aversion or for the sake of instituting preventive rules, may also do so. If, however, his intention was to make it an absolute prohibition, then he has forfeited his posi-

tion as a rabbinical authority and may even be considered a denier of the Oral Law. That is all that one could have deduced from our instructions, as they constitute the basic rules one ought to abide by. It is all explicitly true and no one can take issue with it except an ignoramus or an unobservant person who discredits the truth in the eyes of the multitude. If anyone quoted us otherwise, he is one of our slanderers who lied.

With reference to your question about those who write verses on fringes, I say that this is not permitted. The verses must be removed and buried. I have already dealt with this question in a separate responsum (*Teshubot ha-Rambam*, 7), which will undoubtedly reach you.

Concerning what you have asked about the nature of immortality in the after-life, we have already said what can be said and elucidated on the subject in our other works. I would caution you to avoid reflecting upon such deep matters, such as the nature of separate intelligences. Even well-known scientists are hard put to apprehend them; thence they deny their spiritual qualities and conceive them as corporeal objects. This surely applies to beginners and to those who have no preliminary training. Accordingly, you should not attempt to apprehend anything other than what your mind can grasp. It will not harm you religiously to think that there are corporeal beings in the world to come until you can establish rationally the authentic nature of their existence. Even if you think that they eat, drink, propagate in the upper sphere or in the *Gan Eden*, it will not hurt your faith. There are other more widespread doctrinal follies to which some cling and yet their basic religious beliefs were not damaged. But in refutation of this notion, it is important to project the authentic interpretation of the rabbinic statement "that there is no eating or drinking in the world to come," from which we may deduce that there are no corporeal beings, as we explained in the last discourse which will undoubtedly reach you.

Regarding the assumption of a Fast day, one can do it by simply saying, "I intend to fast tomorrow" or by making a similar statement. According to the *Yerushalmi* it is appropriate to utter the words after the afternoon prayer (*minha*) or, in the middle of the prayer in *Shomea Tefilah*, as we indicated in our

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Book of Adoration (Sefer Ahabah, Hil. Tefilah 2, 14). However, the prayer of *Aneinu* should be said only on the night of the fast.

As to your question about the *araba* (the willow branch), one should not add to the two required branches, just as it is not proper to add to the one *lulav* (palm branch) or the one *etrog* (citron). Other Gaonim do permit the adding of *arabot* just as additional branches to the myrtle are permitted. However, I do not find their argument sound, inasmuch as permission for additions to *hadasim* we found mentioned by our sages in the Talmud, but this is not the case concerning the *arabot*. And anything which is not explicitly indicated by our sages that it is permitted, we assume that it has limits beyond which we cannot go either by additions or diminutions. For, in essence, there is no difference between the adding or subtracting of anything that is limited, and in our view the most desirable way of fulfilling the precept is to use only two willow branches without any additions or diminutions. And whoever wants to follow my opinion may do so.

You mention the objection against our ruling of one who experiences a nocturnal pollution on the night of the fast day by maintaining that he requires a ritual immersion. We do not pay attention to the ridicule of the masses nor to popular discourses, but to notions that are validated by logical inference. We have fully elucidated this principle in *Hil. Kry'at Shema* and *Tefilah* which every scholar can understand.

But with regard to the *Piyyut* (the *Yotzer*—poetic liturgy), I maintain, that it may be recited by each individual as it is by the Reader (*Sheliah Zibbur*). Other Gaonim have disputed this ruling, basing it on the principle that an individual worshipper may not recite the *Kedusha*. However, most of the Gaonim in the West agree with us, inasmuch as the worshipper is simply repeating what the angels recite. As to the *Kedusha*, which a worshipper may not recite in private, this has reference to the prayer the Reader recites in the middle of the *Amidah*, *nakdishakh v'naaritzakh*. Incidentally, this opinion I saw in the book on Prayer by Ibn Gasus, a disciple of Rabenu Nissim which is probably available to you.

The affection you have displayed for us should be greatly

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rewarding, as it is a love for the sake of heaven. It flows from a study of our work grounded in the Torah emanating from God. Hence your love is actually directed toward God, whom we are enjoined to love with all our hearts and souls. From the strength of His love, we are beckoned to love His commandments and prohibitions and the people who know them and teach them.

Moreover, I have learned—although I do not know whether it is true or not—that there is someone who speaks evil against me and tries to gain honor by maligning me and misrepresenting my teaching. I also heard that you protested against this and reprimanded the slanderer. Do not act this way! I forgive anyone who opposes me because of ignorance, especially if he derives from his opposition some personal advantage without harming me. For are we not compelled to refrain from adopting the traits of Sodom in cases where one derives a benefit and the other sustains no loss? Moreover, the pleasure he received is worthless in attempting to convince the residents of the community of his perfection and wisdom by virtue of his ability to attack someone of the stature that people rely upon. Even if his criticism were grounded in wisdom and knowledge, abiding by its conclusions will help one only in this world, but we shall benefit both in this world and the next.

But what is most disturbing is that you are engaged in useless quarrels and troubles, as I do not need the assistance of other men and I leave it to the people to follow their own will.

May the Lord help you according to His Will and direct all your activities and words toward His Name. May your well-being and the well-being of all the elders and disciples be increased. May our God bless you.