

# CENTER FOR MODERN TORAH LEADERSHIP



## THE BEGINNING AND END OF THE (MISHNEH) TORAH IS HUMANISM

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Rambam's Mishneh Torah can reasonably be described as a comprehensive Code of Jewish Law. But it begins and ends on a universal note. The universalism of the opening is evident and straightforward; that of the ending is less obvious and more complex. I hope nonetheless to convince you that this structural insight is correct and should influence our understanding of the work as a whole. (I'm happy to be pointed toward scholarship that has preceded or prefuted my approach.)

In the beginning:

Hilkhot Yesodei HaTorah opens with an exposition of universal truths about G-d. Accordingly, the first four chapters of Hilkhot Yesodei HaTorah are addressed to human beings/אדם generally rather than to Jews/ישראל specifically. The term ישראל appears for the first time at the very end of Chapter 4:

The topics of these four chapters that are included within these five mitzvot are what the Early Sages called Pardes (dessert orchard), as when they said "Four entered the Pardes"

and even though they were greats of Israel/ישראל, and they were great sages – not all of them had within them the capacity to know and grasp all these matters correctly.

And I say: Strolling in the dessert orchard is not appropriate except for one whose stomach has been filled with bread and meat - "bread and meat" = knowing the forbidden and permitted and the like from the other mitzvot -

and even though these matters were called "a lesser matter" by the Sages, as the Sages said: "A greater matter – the making of the chariot; a lesser matter – the inquiries of Abbayay and Rava" – nonetheless, they are properly studied first,

because they settle a human being/אדם's mind at the outset, and furthermore, because they are the great good that the Holy Blessed One caused to flow for the sake of the settlement of This World in order to earn the life of the Coming World, and everyone can know them – lesser and greater, male and female, broadhearted and narrowhearted.

Here is my very tendentious paraphrase:

Even great Jews cannot necessarily know the truths of Pardes, nor can all great sages, Jewish or Gentile. No human being should try to know them without first settling their minds through the study of practical laws relating to commandments other than the first five. But every human being can correctly understand what those laws teach,

and thereby contribute to the settlement of This World, and thereby earn a share in the Coming World.

Here is my even more tendentious executive summary:

Jews and Gentiles have the same purposes and capacities, in this world and the next.

Chapter 5 then begins the exposition of parochial Jewish responsibilities. Rambam makes the contrast stark:

The whole House of Israel/ישראל is commanded about sanctifying this great Name, as Scripture says: *and I must be sanctified within the Children of Israel/ישראל* and are cautioned not to desecrate it, as Scripture says: *and you must not desecrate My Holy Name.*

What are illustrative cases? Were an idolater to arise and coerce an Israel/ישראל. . .

Only Jews are commanded to sanctify the Name, and the paradigmatic case of sanctifying the Name is when a non-Jew uses force against a Jew. We have moved from universalism to them-against-us. Universalism ends when 'they' try to coerce 'us' religiously, or darker, universalism is a theoretical good that inevitably ends in them trying to coerce us religiously. (This is Netziv's understanding of Migdal Bavel.)

At the end:

Hilkhot Melakhim 8:1-9 presents a fantasy of Jewish world conquest. It seems that parochialism ends when 'we' try to coerce 'them', or darker, parochialism inevitably ends in us trying to coerce them.

A striking element of this fantasy is that it involves Jews who are themselves exempt from Divine law imposing it on everyone else. 8:1 states that the conquering Jewish army is freed from all halakhic food restrictions. In other words, its soldiers have no need of "knowing the forbidden and permitted and the like from the other mitzvot", and the meat they eat in no way prepares them to stroll on the Pardes. The unit – and the Code of Specifically Jewish Law - concludes in 8:9 by using the Captured Beautiful Woman/yefat toar as the paradigmatic nonJew. The yefat toar of course also represents the Torah's acknowledgement that law cannot always restrain Jewish sexual appetites. She – like all other conquered nonJews - is given a year to abandon idolatry (and perhaps to accept the other six Noachide Commandments), and if she refuses – she is executed.

There's no hint that this abandonment and acceptance must be motivated by anything other than self-preservation. Regardless, the conquering authority would have no way of reliably discerning the sincerity of any claim to have a different motivation.

But 8:10-11 – the capstone of the entire Mishneh Torah – shifts gradually to a very different vision of intellectual persuasion. Rambam's transition is wonderfully subtle. 8:10 opens with what seems an obviously parochial statement:

משה רבינו לא הנחיל התורה והמצות אלא לישראל,

שנאמר מורשה קהלת יעקב . . .

Moshe Rabbeinu did not bequeath the Torah and mitzvot to anyone other than Israel,

as Scripture says: *an inheritance to the congregation of Jacob* (Devarim 33:4)

Rambam's prooftext points to the ban of Gentiles even studying Torah (Sanhedrin 59a).

ואמר רבי יוחנן:

נכרי שעוסק בתורה חייב מיתה, שנאמר תורה צוה

לנו משה מורשה – לנו מורשה, ולא להם.

Said Rabbi Yochanan: A Gentile who engages deeply with Torah (study) deserves death, as

Scripture says *Torah was commanded to us by Mosheh as an inheritance* – it is an inheritance for us, and not for them.

But it turns out that the prooftext was a feint! Rambam has not finished his sentence.

. . . ולכל הרוצה להתגייר משאר האומות, שנאמר

ככם כגר

**and** to anyone wishing to convert from among the other nations, as Scripture says: “You and the convert alike” (Bamidbar 15:15)

(N.B. My point regarding the feint is strengthened if Rambam was aware of the midrashim that derive the inclusion of converts from Devarim 33:4 itself by having קהלת יעקב imply כל המתקהל ביעקב. Perhaps he also preferred using Bamidbar 15:15 because it emphasizes equality.)

Full equality for converts eliminates the claim that born Jews have unique potential. This is universalism of a sort, universal access to Jewishness. But it is a long way from giving nonJews a role as nonJews – their only viable is enlistment in the conquering Jewish army. Rambam immediately shifts back to that fantasy mode (8:10).

But whoever is not willing – they do not compel him to accept Torah and Mitzvot.

So too, Mosheh Rabbeinu commanded from the mouth of the Omnipotent to compel all those of this world to accept the mitzvot that were commanded to Bnei Noach, and anyone who does not expect them – may be killed;

and he who accepts them – he is the one referred to as *ger toshav* everywhere;

he must accept them upon himself before three *chaverim*.

Anyone who accepts upon himself to circumcise, but twelve months pass without him actually circumcising – he is as one from among the Nations.

If the Mishneh Torah ended there, we would have to read the Mishneh Torah as a progression from universalism to parochialism.

But 8:11 reverts to the universalist key.

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כל המקבל שבע מצות וזוהר לעשותן

הרי זה מחסידי אומות העולם,

ויש לו חלק לעולם הבא,

Anyone who accepts the Seven Commandments and is careful to practice them –

he is among the pious of the Nations of the World, and he has a share in the Coming World,

The fly in my universalist ointment is the very end, where Rambam distinguishes two motivations for keeping the Seven Noachide commandments. Those who observe them because they were commanded in the Torah – are among the pious of the nations of the world, and have a share of the Coming World; those who observe them out of their own judgment – this is not a *ger toshav*, and is not among the pious of the nations of the world, rather/nor among their wise.

הוא שיקבל אותן ויעשה אותן מפני שצוה בהן

הקדוש ברוך הוא בתורה והודיענו על ידי משה רבינו

שבני נח מקודם נצטוו בהן,

אבל אם עשאו מפני הכרע הדעת - אין זה גר תושב,

ואינו מחסידי אומות העולם אלא מחכמיהם.

but this is if he accepts them and does them because the Holy Blessed One commanded them in the Torah and informed us via Mosheh Rabbeinu that Bnei Noach were previously commanded regarding them,

but if he did them because of an intellectual judgment – this is not a *ger toshav*, and is not among the pious of the Nations of the World rather/nor among their sages.

Even assuming (as I do) that “rather?”/אלא is the correct text, it sounds like being a Sage/*chavid* falls short of being a pious/*chakham*. This seems to mean that nonJews have access to the Coming World only by accepting our Torah complete with our tradition of interpretation. Indeed, it seems that nonJews had no access to the Coming World before G-d revealed to Mosheh that Noachides had previously been given the Seven Commandments.

However, the two halves of Rambam's closing equation are not parallel – he does not say explicitly that those who accept the Seven because they were commanded **are** *geri toshav*, nor does he say explicitly that those who accept the commandments out of their own judgment **do not** receive shares in the World to Come.

If we are daring, this opens a path to an interpretation that allows “merely” wise Gentiles to earn shares in the Coming World, just – unlike the pious - without tethering themselves to Jews and Judaism via the status of *ger toshav*. They will have a harder path, as their meat-and-bread has no revealed Divine basis.

This essay is not comprehensive, and there are texts that seem problematic at first glance (e.g. Hilkhos Teshuvah 3:5 and Hilkhos Issurei Biah 14:7) and may remain so under rigorous analysis. But I will close by noting that in Hilkhos Deot Chapter 1 Rambam does not seem to prefer the Jewish *chavid* to the Jewish *chakham*.

Shabbat Shalom!