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ARE HONORARY LEVITES EXEMPT FROM MILITARY DRAFTS?

By Rabbi Aryeh Klapper

Rambam ends his Laws of Shemittah and Yovel, and thus his Book of Seeds, with a stirring peroration (13:13):

Each and every person from among those who have come into the world,
whose spirit volunteered him and whose intellect made him comprehend
so as to separate and stand before Hashem to serve and worship Him to know Hashem,
and went straight as the Divine made him, and removed from his shoulders the yoke of the many calculations that human beings seek after –
he has been sanctified holy of holies, and Hashem will be his portion forever and in all worlds,
and he will acquire/merit (*yizkeh*) in This World sufficient for his needs, in the way that Hashem gave to (*shezakhah l*) the Kohanim and Levites.

Behold King David says: (Tehillim 17:5) Hashem is my portion and my share; You place my hand on my lot.

The phrase “*yizkeh* in his world sufficient for his needs” is clearly a prediction of Divine assistance rather than a binding promise of community support. Even if this were not literarily evident, many commentators note that Rambam himself elsewhere denounces those who choose to live off public support rather than earning a living, even or perhaps especially for the purpose of fulltime Torah study.

This approach makes Rambam’s statement practically unfalsifiable. He does not make this prediction for everyone who engages in Torah study, rather only for those whose motivations are pure conviction. I suspect that the promise is contingent on character as well, in the sense that an authentically Torah-driven person will have minimal needs. So any full-time Torah student who finds themselves with insufficient funds or food plainly lacks the necessary motivation and/or character, and therefore is no disproof of Rambam.

Rambam’s peroration is preceded by the clause “Not only the tribe of Levi, but also (each and every person)...” The analogy appears to be that Tribe Levi is the paradigm for people who have removed themselves from the world calculus. G-d recognizes them for this and in turn provides them with a living via the *ma’aser*/tithe.

But if we correctly understood the first sentence of Rambam’s peroration, the parallelism is flawed. Volunteer “Levites” may not eat Terumah, and no other formal tax is dedicated to their support. They may not serve the functions in the Temple that are reserved for members of Tribe Levi,

let alone those reserved for the Levite subgroup called Kohanim. We can reasonably conclude that Rambam’s sole intention here is to validate and valorize the contemplative life for non-Levites even though they will not be making a material contribution to society. The analogy is not intended to make any direct halakhic claims.

From a literary perspective, we are obliged to check this hypothesis against Rambam’s description of the Levites earlier in the chapter.

The immediately preceding paragraph (13:12) says:

Why wasn’t Levi *zokheh* to a *nachalah* (=hereditary-homestead) in the Land of Israel, and to a share in the spoils of war together with his brethren?

Because he was separated-out to worship Hashem and serve Him and to teach (*lehorot*) His straight ways and His righteous statutes to the masses,
as Scripture says: *they will teach Your statutes to Yaakov and Your Torah to Israel,*

therefore they were separated-out from the ways of the world:

They do not stand-in-ranks for war like the rest of Israel,
and they do not receive *nachalot*,

nor were they *zokheh* for themselves by the power of their bodies,

rather they are the troop of Hashem,
as Scripture says “*May Hashem bless His troop*”,
and He the Blessed is *zokheh* for them,

as Scripture says: *I am your chelek* (=portion) *and your nachalah*.

Commentaries on Rambam have for at least 500 years sought to reconcile the claim that Levites “do not stand-in ranks for war like the rest of Israel” with the very powerful traditional evidence that some or all Levites did go out to war with the Jewish army in Biblical times and after. The most glaring evidence is the office of the Anointed War-Priest, whom the Torah charges with delivering a formal inspirational address to the troops before battle. One can of course explain that this priest leaves the encampment immediately after speaking, but I think the peculiarity of such a claim is obvious.

Responses to other texts include:

- the Levites had the right to volunteer but were not drafted;
- the exemption applied only while the Temple existed and the Levites accordingly had superseding duties;

- the exemption applied only while all the non-Levite tribes held practical title to hereditary homesteads;
- and distinguishing among types of wars in various ways such as
 - tribal vs. national;
 - about real estate vs. life-and-death (leaving wars over economic issues other than real estate uncategorized);
 - and *milchemet mitzvah* vs. *milchemet reshut*.

The problem is that there are simply too many and too varied texts for any single answer to be convincing in all of them.

A suggestion that I have not seen in the commentaries can be rooted earlier in 13:10-11.

All of Tribe Levi is commanded against having *nachalot* in the Land of Canaan, and they are similarly commanded against taking a *chelek* in the spoils when they conquered the cities, as Scripture says (Devarim 10:9):

There must not be for the Kohanim the Levites a chelek or nachalah with Israel –

(meaning:) *chelek* – in the spoils, and *nachalah* in the land, and Scripture similarly says (Bamidbar 18:20):

In their land you will not be nochel, and you will have no chelek amidst them –
(meaning) in the spoils.

It seems to me that these words were said only regarding the land regarding which a covenant was cut with Avraham, Yitzchak, and Yaakov, and that their children would inherit it and that it would be divided among them,

But all other lands that a king of the kings of Israel conquers – the kohanim and Levites in those lands and with regards to those spoils are like all Israel.

Rambam states, with ample precedent, that the Levites did not receive a share of the spoils. Perhaps all that he intended in 13:12 is that Levites do not go out to battle in the same way as the rest of Israel, since they fight with no hope of personal gain.

In Vol. 2 of the monumental (projected 10 volume) *Milchemet Mitzvah* series edited by Aviah Cohen, Yitzchak Avi Roness, and Menachem Butler (who was kind enough to gift me the volume when I mentioned that I was writing on this Rambam), Rabbi Neria Guttel discusses a controversy over a letter from Rav Kuk arguing that the British should exempt Torah scholars from the draft during WW1. Among Rav Kuk's arguments was a claim that the analogy drawn between Torah scholars and Levites means that Torah scholars, like Levites, "Do not stand-in-ranks-for-war like the rest of Israel". The controversy seems to be about whether Rav Kuk intended his argument to apply even to wars fought by a sovereign Jewish state. But if my suggestion above is

accepted, then even for Levites, the line has no relevance to draft exemption, only to the division of spoils.

But put that aside. Rambam's contention that in wars outside the borders of Canaan, the Levites do have a share in the spoils and can claim land for hereditary purposes, likely generates the conclusion that the Levites stand-in-ranks for such wars, and that their exemption from domestic battles is related entirely to their lack of hereditary land. Either way, the exemption cannot be connected to their having superseding duties or greater commitment to G-d, because in that case it should apply all-the-more-so to wars with less immediacy. If the Levites' exemption¹ is not connected to their special duties or commitment, it cannot be extended to Torah scholars, who are not required to give up their hereditary lands.

Finally, even if one rejects the argument that Levites can be drafted for all wars, and further rejects the argument that they can at least be drafted for wars outside the boundaries of Canaan, I don't think there is any basis whatever for holding that Torah scholars share in the spoils of wars fought outside Canaan but not in those of wars fought within Canaan. If so, it is clear that Rambam's analogy between Levites and Torah scholars is not intended legally, but only philosophically. Therefore, even if one reads Rambam as exempting Levites from some or all wars, the analogy provides no basis for extending that exemption to Torah scholars.

There is still reason to discuss Rav Kuk's true intentions. Rav Guttel argues that Rav Kuk's recently published commentary on this Rambam (available on Al HaTorah) settles the issue. Rav Kuk there makes the apparently novel distinction between national and *prati*² wars, and argues that national wars constitute a form of Divine service that fulfills the Levites' special mission rather than conflicting with it. If one assumes that Rav Kuk's position remained constant, this is excellent evidence that he would not have supported exempting Torah scholars from the army of a Jewish state.

Regardless, I have not yet found anyone before Rav Kuk suggesting that Rambam here extends a draft-exemption to Torah scholars (although I have certainly not done comprehensive research), and for the multiple reasons articulated above, I don't think any such reading is plausible. Since to my knowledge this Rambam is THE source for the analogy (although again I have certainly not done comprehensive research), I suggest that the analogy should not play a role in genuinely halakhic discussions about the draft.

Shabbat shalom!

¹ 13:12 does clearly connect their landlessness and lack of share in the spoils to their commitment, but not any exemption.

² The definition of *prati* is not clear. The literal Modern definition is "private", or "individual", but the example Rav Kuk brings is war fought by an individual tribe to conquer its *nachalah*.