

Devarim 14:1 reads as follows:

דברים פרק יד:א-ב

בנים אתם לה' אל-היכם לא תתגודדו ולא תשימו קרחה בין עיניכם למת:

כי עם קדוש אתה לה' אל-היך ובך בחר ה' להיות לו לעם סגלה מכל העמים אשר על פני האדמה:

You are children of Hashem your G-d: *lo titgodedu* and do not place any baldness (*karchah*) between your eyes (in mourning) for the dead.

Because you are a holy nation to Hashem your G-d, and it is you that Hashem chose to be a treasured nation unto him from among all the nations which are on the face of the earth.

In context, it seems clear that *lo titgodedu* refers to another mourning involving self-wounding, as attested by 1 Kings 18:28. However, Yebamot 13b-14a and Sifrei Devarim 96 both record a supplementary meaning; “לא תעשו אגודות אגודות”, which I will translate as “do not split into factions”. The Talmud suggests that this comes from the double *gimmel* and *daled*, although that seems contraindicated by the parallel to *Melakhim*; I have suggested that it is a pun on “*lo titkotetu*”, or do not quarrel, and there are of course other suggestions. I should also note that my friend Rabbi Nachman Levine would doubtless point out that *karchah* may be a reference to Korach, and Korach is in rabbinic thought the classic inciter to *machloket*, or communal division, and this would make “do not split into factions” fit in context. Perhaps it is also worth noting again Rav Yonatan Eibeschuetz’s position, articulated and based on the opening of Parashat Kedoshim, that national holiness/*kedushah* requires unity, which would explain the connection between our verse and the next.

Rambam in his *Sefer Hamitzvot*, Lo Taaseh 45, writes

והנה אמרו (יבמות יג ב) שבכלל לאו זה גם כן האזהרה מחילוק בתי דיני העיר במנהגיהם וחילוף הקבוצים ואמרו לא תתגודדו לא תעשו אגודות אגודות.

Now they said that within this prohibition is also the command against division among the rabbinic courts of a city in their practices, and the differences among groups, and they said “*lo titgodedu*” – do not split into factions.

It is not clear from his language whether the prohibition against factionalizing is comprised by, or additional to, the specific cautions regarding rabbinic courts and *kibbutzim*. Rambam here does not offer an explicit rationale for the prohibitions.

In *Hilkhot Avodah Zarah* 12:14, however, he writes

ובכלל אזהרה זה שלא יהיו שני בתי דינין בעיר אחת זה נוהג כמנהג זה וזה נוהג כמנהג אחר, שדבר זה גורם למחלוקות גדולות שנאמר לא תתגודדו לא תעשו אגודות אגודות.

And included within this caution is that there should not be two rabbinic courts within a single city with one practicing in accordance with this practice and the other practicing like a different practice, as this cause great divisions, as Scripture says “*lo titgodedu* – do not split into factions”.

Here the rationale is explicit, but the prohibition against *kibbutzim* is not. There is room for much pilpul as to whether these differences are significant, and in general as to how Rambam can be reconciled with the Yebamot and the normal rules of halakhic decisionmaking. (I have addressed the latter, as well as Rashi’s almost diametrically opposed understanding of the prohibition, in my articles on Yom Tov Sheni and my shiur Ideology vs. Majority, which I hope to have available in print later this year.) But this week I am interested in *Sefer*

HaChinnukh’s gloss:

כלומר שתהיו חלוקין אלו על אלו. ממורי ישמרו אל למדתי שאין איסור זה אלא בחבורה אחת שחולקין קצתן על קצתן והן שוין בחכמה, שאסור לעשות כל כת מהן כדבריו שזה גורם מחלוקת ביניהן, אלא ישאו ויתנו בדבר הרבה עד שיסכימו כולם לדעה אחת, ואם אי אפשר בכך יעשו הכל כדברי המחמירין אם המחלוקת הוא על דבר שהוא מן התורה, אבל בשני בתי דינין חלוקין והן שוין בחכמה לא נאמר על זה לא תתגודדו . . .

(Rambam in *Hilkhot Avodah Zarah*) means to say that they should not be divided these against those.

From my teacher, may Hashem protect him, I learned that this prohibition applies only within one fellowship where some are divided against others and they are equivalent in wisdom, that it is forbidden for

each group among them to act in accordance with its own opinion as this causes division among them, rather they should converse extensively about the matter until they all agree to one opinion, and if this is impossible they should all act in accordance with the more stringent opinion if it is a matter of Biblical law, but two separate rabbinic courts, equal in wisdom, “lo titgodedu” was not said with regard to them . . .

Sefer HaChinnukh’s qualifications illustrate the fundamental impossibility of making effective rules against fighting. What if one party thinks they are of equivalent wisdom, but the second thinks themselves much wiser? What if the dispute is about whether an issue is deoraita or derabbanan? Most importantly, what is one group sees the second as part of it, but the second sees itself as always having been independent, or declares itself now independent?

This last question is in essence the key to the American Civil War, and it would be well for those of us seeking to define Modern Orthodoxy, and its place within Orthodoxy, to reflect on it.

Shabbat Shalom

Aryeh Klapper

www.torahleadership.org