

## דקדוקים בתוארים במשנה תורה להרמב"ם מאת הרב שרגא נויברגר

I would like to share with the Oilam a chiddush which is really quite basic but probably correct and has many implications. This chiddush is based on a famous דיוק that R' Chaim Volozhiner and תוס' יו"ט make in ב-ג ה: פרקי אבות ה: When the Mishna talks about the עשרה דורות between Noach and Avraham, it leaves out the title 'אבינו', but when it lists the 10 Nisyonos of Avraham, 'אבינו' is included. R' Chaim Volozhiner learns that those middos that Avraham displayed throughout the Nisyonos, he passed on to us as a function of an Av and therefore the Mishna is makpid to use the title 'אבינו'.

My observation, and chiddush, is specifically in Shitas HaRambam of how he uses titles of the various personalities that he mentions throughout his יד החזקה. [We are told to be מדייק in Rambam like we are in a משנה or גמרא.] I would like to suggest that every time the Rambam uses a title, whether it's Avinu, Rabbeinu, HaMelech, HaNavi, HaRasha, there is a precise reason for it. Conversely, if he does not use a title, there must also be a reason for it. I've discovered through this chiddush many fascinating aspects in the Rambam that it's true in spite of the fact that there are many examples that do not have such obvious reasons and need further explanation.

The way I came about this observation was in learning a Rambam in הלכות תפילה ה: א, where he states that תפלות were instituted to mirror the קרבנות. In מס' ברכות ד' כו, the 'גמ' has a מח' whether תפילה was instituted to emulate the אבות or to represent the קרבנות. The Rambam here in הלכות תפילה brings only the שיטה of ר' יהושע בן לוי who holds it to be ר' יוסי בר כנגד תמידים תקנום. The כסף משנה on this halacha comments that even though ר' יוסי בר כנינא says it is אבות תקנום (and has ברייתא to support this), Rambam holds that ר' יוסי בר כנינא is a better ראיה and the answer for the גמ' question on ר' יוסי בר כנינא was דחוק. Therefore, he chooses the reason of קרבנות תקנום. I was bothered with כסף משנה's maskana because of a well-known Rambam in הלכות מלכים where he talks about the צוויים of Adam haRishon through the Avos. He writes that each of the Avos instituted a different תפילה. It would then seem that he does indeed hold of תפלות כנגד אבות תקנום. Another fair question is why would Rambam bring תפלות כנגד אבות תקנום in הלכות מלכים? It must be that the כסף משנה learns that Rambam does not hold תפלות כנגד אבות תקנום in halacha. We can see this from the fact that the Rambam doesn't say the Avos were מתקן it, rather he just writes that they davened. As well, he doesn't write "אבינו" by any of them when listing the תפילה that they respectively davened. From the lack of the wordings "תקנום" and "אבינו," כסף משנה learns Rambam as agreeing that they did daven, but holding that they did not institute it formally.

There are many more examples of Rambam's title usage by the Avos, especially in הלכות עכו"ם פרק א' where he calls Avraham "אבינו" when describing him as עמודו של עולם, which is very appropriate in the context of introducing monotheism to the rest of history. A few lines later, when he writes אברהם הכיר את בוראו "אבינו" is noticeably absent because at that point in time he wasn't spreading Hashem to the world, and therefore

Rambam is מדקדק to call him Avraham without אבינו. Later in the פרק, when Rambam writes לשון הפסוק (which is taken from the שבועה לאברהם אבינו) while a line before he writes Avraham without אבינו. This may be because that prior line is about almost losing the עיקור so Avraham is not called אבינו, but there must be some חשבון in the Rambam for this phenomenon if we see it keep jumping back and forth.

The Rambam only once in the entire יד calls Yitzchok "אבינו." In הלכות בית הבחירה. In מקום המזבח, he writes that the מזבח cannot move as that was the מקום where יצחק אבינו was at the עקידה. That was where Yitzchok placed in us the כח of נפש, מסירת נפש, and that is why this is the only time Rambam mentions Yitzchok with the title אבינו.

Interestingly, in הלכות מילה, Avraham is mentioned many times with the title אבינו. However, in הלכות מלכים י: ז, Rambam writes only זרע אברהם are commanded in מילה and he leaves out the title אבינו. The next halacha is Rambam's big chiddush that בני קטורה are also זרע אברהם and therefore חייב במילה. The משנה למלך points out that they cannot have the same mitzvah of מילה as כלל ישראל (פריעה, etc.). This is why Rambam left out "אבינו" here, because that would connote a mitzvah that only כלל ישראל has when indeed other זרע אברהם are included. This is the difference between הלכות מילה and the discussion of מילה in הלכות מלכים.

At the end of הלכות מלכים פרק ה', Rambam is extolling the virtues of being buried in ארץ ישראל. צא ולמד מיעקב אבינו ויוסף הצדיק - ארץ ישראל. In גמ' כתובות דף קיא it says even though Yaakov was a צדיק גמור he was still מקפיד to be buried in ארץ ישראל lest he not be זוכה to the מחילות and Yosef was also a צדיק גמור but still מקפיד for the same reason. Why does Rambam give them different titles in the same sentence especially when we find elsewhere he uses the title הצדיק for Yaakov? At the end of הלכות שכירות יג: ז, he writes the obligation of working with total effort - אבינו את אבינו. There must be a reason why here Rambam writes צדיק but in הלכות מלכים he writes Avinu.

Yaakov is called אבינו several times in the יד. In הלכות עכו"ם א: ג, Rambam writes: והודיעו ליצחק בנו וישב יצחק מלמד ומזהיר ויצחק הודיע ליעקב ומינהו ללמד וישב מלמד ומחזיק כל הנלוים אליו ויעקב אבינו למד בניו כולם. Yitzchok is not called אבינו when he teaches Yaakov, but Yaakov teaching the Bonim is called אבינו! Perhaps, and I am open to other suggestions, this is because Yaakov also learned from שם ועבר and therefore Rambam left out אבינו to denote that Yitzchok wasn't his exclusive teacher. Or maybe because Yaakov is recognized as the התורה, so he is called אבינו when he gives over the התורה that he received to the Bonim.

Interestingly, הלכות מלכים, פרק יוסף הצדיק, is mentioned two other places in the יד. In הלכות יסודי התורה ה: י, Rambam uses יוסף הצדיק as an example of אשת פוטיפרע. This makes total sense because he is referred to as a צדיק when referenced as showing צידקות. Nevertheless, in הלכות נחלות ו: יג, Rambam writes צו חכמים שלא ישנה אדם בין הבנים בחייו אפילו בדבר מועט שלא יבואו לידי

יוסף leaving out צדיק because at that point in time, Yosef isn't a צדיק yet and therefore Rambam is particular to leave out the title.

These are all ראיות that every title in the Rambam must have a reason. Now, there are many questions I have on this as well and I am open to answers for them. I have spoken to many talmidei chachomim in many different places in the past two months when I came to this realization, and everyone I've talked to so far believes that there must be answers and we must try to find the reasons for each case why the Rambam used a title and each case that he doesn't. I will just leave you with some of the interesting observations that I had in how Rambam deals with titles-

- 1) In the whole יד, not once is Aharon called Aharon Hakohen. We know from הלכות תלמוד תורה that כהונה זכה בו אהרן, yet he is never identified as Aharon Hakohen.
- 2) Eliyahu is mentioned a number of times but never called Eliyahu HaNavi. Shmuel, on the other hand, is sometimes called Shmuel, sometimes Shmuel HaNavi, and sometimes Shmuel HaRamasi. It is also interesting in הלכות יסודי א: כל נביא שיעמוד לנו ויאמר שה' שלחו אינו צריך לעשות התורה י: א, Rambam writes אות כאחד מאותות משה רבינו או כאותות אליהו ואלישע. Moshe is called Rabbeinu, like many times elsewhere, but Eliyahu even when he is performing an אות is still not called Eliyahu HaNavi. Why is Eliyahu never called HaNavi but Shmuel is?
- 3) Numerous times, Moshe is called Rabbeinu but there are certain times where the Rabbeinu is left out like in הלכות קידוש החדש - המראה לו הקב"ה למשה במראה - המראה. I have to double-check, but I think every time Moshe is mentioned with הקב"ה, the Rabbeinu is left out but when he is mentioned in relation to us, being our rebbe, he is called Moshe Rabbeinu. בשעה - הלכות שבועות יא: טו. שאמר הקב"ה למשה is another instance of him not being called Rabbeinu, and it coincides with following Hashem.

There are more cases, such as Dovid and Shlomo sometimes having המלך and sometimes not, of this phenomenon in משנה תורה. All of these are questions that I am just beginning to deal with and I am looking for input from the Oilam to come up with the אמת. In closing, in א: י, הלכות מתנת עניים י: א, שהצדקה סימן לצדיק זרע אברהם אבינו שנאמר כי ידעתיו למען אשר יצוה את בניו לעשות צדקה, because this is a סימן of what כלל ישראל is, it's obvious to us why Rambam calls him אבינו. I would be more than welcome if someone has a different explanation to this or answers some of our questions regarding this, and I hope to work on this ענין more in the future ה'. בעזר ה' אייבעשטר זאָלן העלפן. The אמת and it should bring us להרבות תורה ולהאדירה.