

DIMENSIONS IN CHUMASH

Parshas Ki Tetzei

Sending Away the Mother Bird

Concept: Exploring the Reasons for Mitzvos

כי יקרא קן צפור לפניך בדרך בכל עץ או על הארץ אפרוחים או ביצים והאם רבצת על האפרוחים או על הביצים לא תקח האם על הבנים. שלח תשלח את האם ואת הבנים תקח לך

If you should happen upon a bird's nest on the road... young birds or eggs, and the mother is roosting on the young birds or on the eggs, you shall not take the mother together with the young. You shall surely send away the mother and take the young for yourself.¹

INTRODUCTION: TO SILENCE OR TO ENCOURAGE?

The mitzvah of sending away the mother bird before taking the young is the subject of a most unusual discussion in the Mishnah, which, in turn, serves as an opening for a much broader discussion relating to mitzvos in general. The Mishnah states:

האומר על קן צפיר יגיעו רחמיו... משתקין אותו

If one says, "Your mercy extends to the mother bird"... we silence him.²

Rashi explains that the Mishnah is discussing a person who says, as a prayer before Hashem, "Just as You had mercy on the mother bird – to send her away so that she not see her young taken before her – so too, have mercy on us." Now, on the face of it, this sounds like a wonderful prayer. Why should it be grounds for silencing the one who utters it? One of the two explanations given in the Gemara for this unusual ruling is:

מפני שעושה מדותיו של הקדוש ברוך הוא רחמים ואינם אלא גזירות

For [the person] has made Hashem's ways into [exercises in] mercy, while they are [in fact] none other than Divine decrees.

Apparently, the Mishnah is informing us that to seek to ascribe reasons to mitzvos is inherently and

1 Devarim 22:6-7.

2 Berachos 33b.

categorically objectionable, so much so that we actually silence a person who tries to do so. Mitzvos are Divine decrees that should be performed without attempting to understand their reasons.

However, this notion seems somewhat surprising – and perhaps even a little confusing. Do we not find in numerous places that Chazal themselves presented reasons for mitzvos.³ Indeed, this enterprise continued in the era of the Rishonim, where entire works such as the *Sefer HaChinuch* were written to provide reasons for Mitzvos! How is this to be reconciled with what we have been taught in the Mishnah concerning this? The matter comes to a head when we consider that the Rambam in the Mishneh Torah⁴ codifies the Mishnah's ruling, whereby we silence a person who says the sending the mother bird is in order to have mercy on her. Yet in the third section of his *Moreh Nevuchim* – which is likewise entirely given over to providing reasons for mitzvos – the Rambam presents that very reason for the mitzvah of sending away the mother bird!⁵

How are we to understand all of this? Is presenting reasons for mitzvos acceptable, laudable or objectionable?

TOSAFOS YOM TOV: SYNAGOGUES AND STUDY HALLS

A classic explanation of this matter is found in the commentary of the Tosafos Yom Tov to the above-cited Mishnah in Berachos. He writes that to suggest reasons for mitzvos is indeed a positive and praiseworthy thing, both in terms of the insight it yields as well as the enhancing effect it can have on the performance of the mitzvos themselves. The reason the Mishnah says to silence a person who ascribes a reason for the mitzvah of sending away the mother bird is because he does so *within the context of prayer*. Why does that make a difference? Our prayers which we recite before Hashem must be based on things that we know to be true. As praiseworthy as it is to suggest reasons for mitzvos, we have to recognize that they are never more than suggestions – albeit ones that we are encouraged to make. Therefore, the reasons we ascribe to the mitzvos, profound though they may be, belong in the study hall, but have no entry in the synagogue.⁶

THE MISHNEH TORAH AND THE MOREH NEVUCHIM

Now, seemingly, the above explanation of the Tosafos Yom Tov would also help us resolve the words of the Rambam in the *Moreh Nevuchim* with his ruling in the Mishneh Torah. For the Rambam, too, codifies the idea of “we silence him” specifically within the laws of prayer. In contrast to this, outside of prayer, there is no objection to suggesting this reason, as per his explanation in the *Moreh Nevuchim*.

However, it is clear from the words of the Rambam himself that there is more to it than that. In the *Moreh Nevuchim*, after presenting his reason for sending away the mother bird (that it is to have compassion for her feelings), the Rambam then says:

3 See e.g. Bava Kama 79b regarding why the penalty for robbery is double that of stealing, as well as why one who steals a sheep and then sells it pays fourfold, while for an ox he pays fivefold, and Sotah 32b regarding why the Torah mandates that a sin-offering be slaughtered in the same part of the Temple courtyard as a burnt-offering.

4 *Hilchos Tefillah* 9:7.

5 Chap. 48. See also Midrash Devarim Rabbah 6:1.

6 The Ramban (Commentary to verse 6) sees no contradiction between perceiving an element of mercy within the mitzvah and the Mishnah saying that we silence one who says Hashem's mercy extends to the mother bird. The point of the Mishnah is that the primary beneficiary of the mitzvah is not the mother bird, to whom Hashem shows mercy, but rather, the Jewish people, to whom Hashem has given decrees to instill within them the trait of compassion. See also Sefer Hachinuch Mitzvah 545 and Maharal, Tiferes Yisrael Chap. 6.

*And do not raise a difficulty on what I have just said from the statement of the sages that one who says, “Your mercy extends to the mother bird,” that we silence him. For that statement reflects one of the two approaches we have discussed, namely, that there are no reasons for mitzvos, only Hashem’s will; but as for us, **we have been drawn after the second approach** [which ascribes reasons to mitzvos].*

We see that the Rambam explicitly does *not* seek to present his explanation as one that can be harmonized with the Mishnah’s ruling, representing one unified approach. Rather, they reflect two distinct approaches in Chazal regarding reasons for mitzvos. In the Mishneh Torah, the Rambam follows the approach which does not ascribe reasons for mitzvos, while in the *Moreh Nevuchim*, he is “drawn after” the second approach which does.⁷

What is the meaning of this statement? Why would the Rambam be “drawn after” an approach in one of his works that differs from his approach in his other works?

The background to this matter relates to the entire reason the Rambam wrote the *Moreh Nevuchim* in the first place. A student of the Rambam, R’ Yosef ibn Aknin, wrote to him saying that Jewish communities were foundering because they were not able to give a cohesive philosophical presentation of Judaism to their non-Jewish neighbors. In response to this, the Rambam wrote the *Moreh Nevuchim*. What this means is that the very inception and purpose of this work is to give people a response to any question they may be asked about Torah and Mitzvos. As such, it is entirely understandable that the approach in Chazal which the Rambam adopts in this work is the one which ascribes reasons for Mitzvos. Therefore, while the Mishneh Torah reflects the approach with which the Rambam himself *chose* to present – and apparently, the one with which he identifies more – when it comes to the *Moreh Nevuchim*, we can certainly understand why he was “drawn after the second approach,” providing his readers with an explanation for each of the Mitzvos.

A WORD ABOUT THE RAMBAM’S REASONS

Now, it is important to emphasize that this does not mean that the Rambam will say something in the *Moreh Nevuchim* that he feels is actually incorrect. What it means is that he will avail himself of approaches within Chazal that are, needless to say, legitimate, but which he otherwise would not have turned to.⁸

In this vein, one of the great Rishonim, the Ritva,⁹ points out that often, the reason that the Rambam provides for a mitzvah in the *Moreh Nevuchim* does not represent what he thinks is the totality of what is behind the Mitzvah, rather, it is an element within the mitzvah that can be rationally grasped, which is then presented for those Jews who are compelled to give a rational accounting for the laws of Torah.

7 [The Gemara in Berachos (loc. cit.) presents another reason why we silence the person, namely, that “he provokes jealousy among the works of creation,” as to why only the mother bird is accorded this mercy. This explanation appears to endorse the idea itself of reasons for mitzvos, and would thus provide a way of harmonizing the Rambam’s words in the *Moreh Nevuchim* with the Mishnah’s ruling. Indeed, it is possible that when the Rambam says “we have been drawn after the second approach,” he is referring to the Gemara’s alternative explanation of the Mishnah.]

8 Based on a conversation with R’ Asher Weiss shlit”a regarding this question.

9 The Ritva (Rabbeinu Yom Tov of Seville) belonged to the “beis midrash” of the Ramban – his teacher, the Rashba, was one of the Ramban’s primary disciples. And yet, he wrote a work known as Sefer Hazikaron defending the Rambam from all of the attacks directed against him by the Ramban. This was so, even though in almost all cases, he himself identified with the approach of the Ramban! Nevertheless, he felt that within the Rambam’s own system and approach, his explanations deserved to be understood as being logically sound and methodologically cohesive.

A classic example of this is the Rambam's explanation in the Moreh Nevuchim¹⁰ of korbanos (sacrifices), namely, that they were a concession to the Jewish people who could not conceive of religious practice without sacrifices. Numerous commentators attack this explanation of the Rambam, pointing out that there undeniably more to korbanos than this.¹¹ And indeed, here, too, the Rambam himself in the Mishneh Torah¹² writes that korbanos are in the category of mitzvos known as "chukkim" – mitzvos whose reasons we don't understand. However, within the context of the purpose for which the Moreh Nevuchim was written, he is prepared to present what he feels is at least part of the reason as "the reason" for those who demand one.¹³

HILCHOS ME'ILAH AND TEMURAH – THE PLOT THICKENS

However, it should be noted that, even after taking the Rambam's distinction between his works into account, the matter is still not so clear-cut. In the Mishneh Torah, at the end of Hilchos Mei'lah,¹⁴ the Rambam writes:

It is fitting for a person to contemplate the laws (mishpetei) of the holy Torah and to understand their ultimate meaning as best he can. And something for which he does not find a reason, let him not take it lightly... and let him not relate to it as he does to other mundane matters... our sages have said, "I [Hashem] have decreed statutes for you; you do not have permission to question them"

Likewise, in the end of Hilchos Temurah,¹⁵ he says:

Even though all the laws (chukei) of the Torah are Divine decrees... it is fitting to contemplate them, and whatever you can present a reason for, do so.

We see that, even in the Mishneh Torah, the Rambam encourages inquiring, as far as possible, into the reasons for the Mitzvos. Having said that, we remind ourselves that the Rambam also codifies in the Mishneh Torah the ruling of the Mishnah that we silence one who tries to ascribe a reason to the mitzvah of sending away the mother bird! Clearly, therefore, silencing is not incompatible with the basic idea of giving rulings for mitzvos. How, then, can these two ideas be reconciled? Perhaps we need to return to the Tosafos Yom Tov's distinction between whether one says this reason within the context of prayer or of study.

However, regardless of the way we choose to reconcile the Rambam's rulings in Mishneh Torah, what remains difficult is why, in the Moreh Nevuchim, the Rambam responded to the Mishnah's ruling of "we silence him" by saying that the Mishnah adopts the approach that there are no reasons for mitzvos? From his own rulings in the Mishneh Torah we see that that Mishnah is not at all incompatible with the idea of ascribing reasons to mitzvos!

HILCHOS TEFILLAH – THE PLOT THICKENS MORE

It would appear that the answer to all the above will come from considering the precise way the Rambam in Hilchos Tefillah explains the ruling of the Mishnah that we silence a person who says "Your mercy extends to the mother bird":

Whoever says as part of prayer, "May the One Who had mercy on the mother bird

10 Sec. 3 Chap 32.

11 See e.g. Ramban to Vayikra 1:9 and Akeydas Yitzchak, Shaar 57.

12 *Hilchos Me'ilah 8:8.*

13 Sefer Hazikaron ibid. Chap. 3. See also, regarding this question, Responsa of Rivash 1:45.

14 8:8.

15 4:13.

not to take her with her young, or not to slaughter the mother and her child on the same day,¹⁶ also have mercy on us,” we silence him. For these mitzvos are scriptural decrees and are not acts of mercy. For if they were because of mercy, the Torah would not have permitted to slaughter them at all.

Similarly, in his Commentary to the Mishnah in Berachos, the Rambam explains that we silence the person who suggests the reason of mercy for this mitzvah, since this cannot be the reason, as he argued in the Mishneh Torah, and concludes:

Rather, it is [clearly] a mitzvah that we receive without knowing the reason.

We see that the Rambam understands the problematic nature of this prayer about the mother bird, not in the idea itself of suggesting reasons for mitzvos, and not even in doing so as the basis of a prayer, but rather, in suggesting a reason that is demonstrably untrue!¹⁷

Certainly this ruling is completely in accord with the Rambam’s words in Hilchos Me’ilah and Temurah where he encourages people to seek reasons for mitzvos, for he is only encouraging them to seek reasons that sound reasonable – unlike the explanation of mercy for the mother bird which is patently impossible!

However, in light of this, we return again to the Rambam in the Moreh Nevuchim, this time with a different question. For we now see that the difference between the two works is no longer one of general approach regarding whether we suggest reasons for mitzvos, but rather, relates to the specific reason suggested for this specific mitzvah. As such, the difference between them now is that the very reason that is rejected by the Mishneh Torah, i.e. mercy for the mother bird, is endorsed by the Moreh Nevuchim!

Now what?

RESOLUTION

Taking all the above in account, it appears that explanation of the Rambam’s position as follows:

- ▷ In the Mishneh Torah, the Rambam endorses and encourages looking into reasons for mitzvos, unless the mitzvah seems to defy explanation, in which case one should desist and recognize it as being beyond his understanding. In keeping with this approach, the Rambam codifies the Mishnah’s ruling that we silence a person who explains the mitzvah of sending the mother bird as being based on mercy, explaining that this Mishnah is specifically disqualifying that particular explanation, while it remains positive on the idea of reasons for mitzvos in general.
- ▷ In the Moreh Nevuchim, the Rambam adopts the approach which seeks to provide a reason for every mitzvah, leaving as few as possible in the realm of mitzvos with no reason. As such, when it comes to the mitzvah of sending away the mother bird, he adopts the reason which he rejected in the Mishneh Torah, since is ultimately

16 Commentators point out that this second example does not appear in the Mishnah; rather, it is the Rambam’s own extrapolation from the Mishnah’s case of the mother bird.

17 More specifically, perhaps the unusually harsh ruling of “we silence him” is based on the combined problem of the person taking a reason that is clearly not valid and basing a prayer in it. Hence, the Rambam codifies this ruling within the laws of prayer. Were a person to propose this reason in the study hall, we might not so much silence him as simply ignore him.

the most likely candidate if one insists that there is a reason.¹⁸ However, now the Mishnah which states that we silence a person for suggesting this reason stands as an explicit and direct refutation of it! Therefore, the Rambam responds to that Mishnah by ascribing it to that approach within Chazal that does not perceive reasons for mitzvos, while “we have been drawn after the other approach” where we seek to find the reasons for mitzvos.

Thus, we see that the mitzvah of *kan tzippor*, in addition to providing us with an opportunity to discuss the idea of reasons for mitzvos in general, also serves as a classic example of the careful study required for the works of the Rambam, each with its particular goal and methodology within the totality of the Rambam’s teachings.¹⁹

18 In response to the problem Rambam raises in Mishneh Torah, namely, that if the Torah wished to be merciful toward the bird it would have forbidden its slaughter altogether, the commentators respond that while animals have been placed at man’s disposal for use, the Torah nonetheless requires that this be done in a humane and compassionate way.

19 See also, regarding the relationship between all the Rambam’s works, in Meshech Chochmah to Shemos 20:3.