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THE ORGANIZATIONAL PATTERN OF THE MISHNEH TORAH

by

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Both in his introduction to *Sefer Ha-Mitzvot* (= *SM*) and to the *Mishneh Torah* (= *MT*), Maimonides discusses the question of how the *MT* should be arranged, and what models were considered. I wish to attempt a clarification as to what options were presented, and which of them was adopted. In *SM* Maimonides states: ¹

When I considered this goal, my thoughts moved to the manner of the division of this work, and its breakdown into parts. What would be suitable for it? Should I divide it like the division of the Mishnah, and imitate it, or should I divide it in another manner and place earlier or later according to what reason dictates as being preferable and easier for learning. It was then clear to me that the best would be to divide it so that *halakhot* take the place of tractates of the Mishnah, so that one would say in it '*halakhot of Lulav*', '*halakhot of Mezuzah*', '*halakhot of Tzitzit*', and that I should divide each grouping into chapters and *halakhot*, as the *Mishnah* does, so that there would be, for example, in 'the *halakhot of Tefillin*', chapter one, chapter two, and chapter three and four. And each chapter is divided into *halakhot*, to facilitate learning it by heart for whoever desires to learn any of it by heart. And it is clear that, since the division is such, then it is improper that the laws of one commandment, whether positive or negative, be divided into two groupings; rather, whatever of it requires division will come in the chapters of that grouping. And it is possible that in one grouping there will be a number of commandments, whether because they have a common subject, or there are several commandments with one object. For example, when I shall speak of Idolatry, and I shall catalogue this grouping as '*halakhot of Idolatry*', then I shall study in this grouping the laws of a number of commandments, the beguiler, he who leads astray, and he who passes to Molech, and prophesier in its name, and worshipper of it, and other commandments whose object is specifically Idolatry. Similarly, when I say '*halakhot of things forbidden to the altar*', I shall speak in that grouping about the prohibition of leaven and honey, blemished offerings, the hire of a harlot, and 'price', and the like, since all of these commandments have a common subject, namely, that all of them are things which are forbidden to be sacrificed.

This passage has been interpreted by most authorities to mean that Maimonides rejected the *Mishnah* as his model, and chose the second option: the logical arrangement. Thus Boaz Cohen writes, "Maimonides was confronted with the choice of adhering strictly to the precedent set

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¹ M. A. Friedman has graciously translated the passage from the Arabic (for a critical ed. of which, see J. Blau, *Leshonenu* 37 (1973), 296).

by the Mishna, or to re-divide the law in a scientific fashion. He fortunately discarded the archaic system of the Mishna because of its obvious defects and drawbacks, and resolved to group the laws into apt divisions and sub-divisions".²

This is certainly a plausible approach to the above passage. However, it is not free from difficulties. Unfortunately, Maimonides does not clearly state which alternative he has adopted. The presentation of the Mishnah-option in the first position does indeed give the impression that it is being rejected. But what is disarming is the frequent mention of the Mishnah in the paragraph containing his final choice, where we would expect a clear rejection of the Mishnah-pattern. Furthermore, we do not find, in this paragraph, a clear definition of the *new* "scientific" system. On the contrary, Maimonides continuously emphasizes the relation of his system of grouping to that of the Mishnah! Similarly, Boaz Cohen, in the above-mentioned study, finds it necessary to underscore the similarities between the "rejected" Mishnah-pattern and the new "scientific fashion".³

We wish to suggest that an alternate interpretation of this passage may remove these difficulties. It would appear that the subject of this passage is *not* the actual order or sequence of the *MT*, but rather what *type* of arrangement should be used. The question is not one of sequence (*sdr*), but method of division (Heb. *hlq* 4; Arab. *qsm* 5). Maimonides presents two options: (1) the system used by the Mishnah; *i.e.*, dividing his work into large sections, like the tractates of the Mishnah, each devoted to one general topic, with internal subdivisions; (2) to follow a logical scheme in which each law would follow linearly from the previous. He chose the first.⁶

Maimonides weighed the relative merits of each model. The linear pattern had the intellectually superior quality of placing each law in

² *Jewish Quarterly Review* 25 (1953), 520.

³ He writes, "His [Maimonides'] main objective was an orderly and methodical arrangement of the law, with an evident design to adhere to the pattern of the Mishna as far as it was congruent with his prime purpose. The following table will indicate to what extent the *Yad* shows derivation from the Mishna" (*ibid.*, p. 524, see table there).

⁴ Intro. to *MT*.

⁵ Intro. to *SM*.

⁶ Several writers have underscored the similarity of *MT* arrangement to the Mishnah, without interpreting our passage, *e.g.* I. M. Levey, "Maimonides as Codifier," *Central Conference of American Rabbis* 45 (1935), 390. B. Z. Bokser provides an explanation similar to ours (*Bizaron* 19, 1948, 91), without, however, distinguishing between *sdr* and *hlq*; see below.

its correct theoretic order, flowing from the previous law, and leading directly to the following, without subgroupings. On the other hand, the Mishnah's "tractate" style had pedagogic value "to facilitate learning it by heart for whoever desired to learn any of it by heart", and this took precedence, perhaps due to Maimonides' goal of having the *MT* disseminated and thoroughly learned in as wide a circle as possible. Indeed, the characteristic of the book being learned thoroughly, so as to enable systematic recall, even by the general public, is the very quality which Maimonides often associates with the Mishnah: - "He [Judah the Prince] composed a book that would be in everyone's possession, in order that they could learn it quickly, and it would not be forgotten" (Intro. to *MT*). Furthermore, Maimonides specifically points out there that this was to be achieved for the *MT* by dividing it according to the model that we have called the "Mishnah style". He writes, "And I saw fit to divide this work into separate *halakhot* for each and every subject, and I shall divide the *halakhot* into chapters of that subject, and each chapter I shall divide into small *halakhot*, in order that they will be 'arranged on the mouth' ".⁷

If our hypothesis that Maimonides abandoned a "logical" arrangement in favour of a popular-pedagogic one⁸ is correct, the decision must have been a difficult one. This is perhaps reflected in his language, as he emphasizes that the tractate method requires not dividing the laws of a given commandment between two groupings (see below), and having several commandments combined in one grouping (see introductions, *SM* and *MT*).

The linear sequence of a strict conceptual relationship, rejected for the *MT*, is perhaps exemplified in the body of *SM*. A conceptual scheme determines the sequence of 613 paragraphs, one for each commandment.⁹ The operation of "placing earlier or later what reason dictates" is a delicate one here, there being 613 such decisions, and 611 transitions from one commandment to the next. This scheme requires placing different laws relating to one subject in different segments of the sequence.

⁷ Concerning the exact meaning of this phrase, see S. Abramson, *R. Nissim Gaon* (Jerusalem, 1965), 29-30, n. 2; idem, *Inyanot be-sifrut ha-Geonim* (Jerusalem, 1974), 266, n. 1.

⁸ *Contra* Bokser (n. 6 above).

⁹ Among attempts at clarification of the sequence, see J. L. Moinester, *Maimonides' Classification* etc. (Heb., New York, 1945); S. Rawidowicz, "Maimonides' *SM* and Sefer Ham-madda'" (Hebrew), *Metsudah* III-IV, (London, 1945), 185, 211-212; A. Hilvitz, *Sinai* 19 (1946), 258-267; C. Tchernowitz, *Toledoth ha-Poskim* 2 (New York, 1947), 285-291.

Thus the impurity of the leper is positive commandment par. 101, within the segment dealing with impurities, and is thus distanced from par. 110, the purification from leprosy, which is placed in a segment containing all purifications,¹⁰ whereas in *MT* both laws are in one grouping, "the *halakhot* of the impurity of leprosy", being the scheme referred to in our *SM* Intro. passage.

According to our suggestion, the linear-logical arrangement rejected by Maimonides in the *SM* passage could be identical with the "enumeration of commandments" arrangement rejected in Intro. *MT* in favour of the tractate style.

We have explored the possibility that the *SM* passage discusses style of arrangement (*taqsim/ḥalūqā*), and the model adopted was that of the Mishnah. In the application of this model, however, it is clear that Maimonides did not follow the sequence (*sēder*) of the Mishnah, or its exact arrangement of the laws. Consequently he stated, "I follow neither the sequence of the Talmud nor the sequence of the Mishnah, but each subject-unit collects all the laws that were taught about that subject in all places, so that the laws of that subject will not be dispersed and divided in different places".¹¹

It is significant that Maimonides does *not* comment here upon the logical progression of his work, as he should were he employing the second option. Rather, he emphasizes the perfect application of organizing each law within its own grouping. In adopting the subdivision-method of the Mishnah, Maimonides perfected it by applying it consistently, and according to his new, original sequence.¹²

In the same responsum, Maimonides indicates that the *MT* was composed "in the *manner* of the Mishnah, and in the language of the Mishnah". In its context, this clearly means that the *MT* contains only codified law, without derivation or dialectical discussion. Thus he distinguished among the manner of the Mishnah (*drk*) which he adopts, the type of arrangement of the Mishnah (*ḥlq/qsm*) which he adopts, and the sequence of the Mishnah (*sdr*) which he rejects.

Thus, even regarding the organizational scheme of the *MT* we can

¹⁰ It is significant to note that Maimonides himself, in a responsum to Tyre, gives this type of explanation for positive commandments 134, 141 (J. Blau, *R. Moses b. Maimon, Responsa* II Jerusalem, 1960, 725, no. 447 end). It would appear that the questioner had challenged the logic of the arrangement.

¹¹ In his letter to R. Pinhas, Dayyan of Alexandria, *Maimonides' Responsa* (Leipzig, 1859), no. 140, p. 26, col. a.

¹² See I. Twersky, "The Structure of the *MT*" (Hebrew), *Proceedings of the Sixth World Congress of Jewish Studies* 3 (Jerusalem, 1977), 179 ff.

construe Maimonides as being consistent with his well-known wish to emulate the Mishnah of Judah the Prince in language and cultural-legal role.¹³ Indeed, he actually states (in our passage), that he will divide his work "*as the Mishnah does*".

¹³ The relationship to the Mishnah is perhaps hinted in number symbolism. "There are threescore queens and fourscore concubines..." (Song VI, 8). "There are 60 queens, these are the 60 tractates of the Mishnah" (*Midrash Song R.* 6, 14). This homily fits, even though 60 had become merely a round number—Maimonides counts 61 tractates (Intro. to the Mishnah). Accordingly, could the 83 *halakhot* of the *MT* correspond to the next number in that verse?