

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH LEARNING
PROJECT

The Noahide Laws – Lesson Six



**Written by Rabbi Avraham Chaim
Bloomenstiel**

© Yeshiva Pirchei Shoshanim 2014

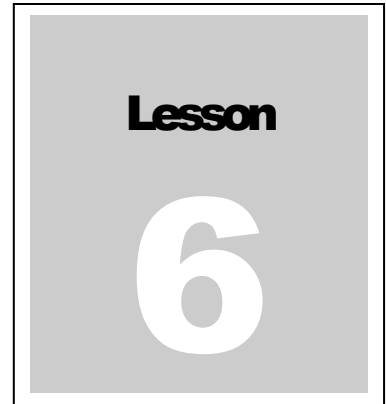
This shiur may not be reproduced in any
form without permission of the copyright holder.

**164 Village Path, Lakewood NJ 08701 732.370.3344
164 Rabbi Akiva, Bnei Brak, 03.616.6340**

Outline of This Lesson:

1. Introduction
2. The Importance of Maimonides
3. Later Authorities and the Noahide Laws
4. The Importance of Torah Study
5. Introductions to the Seven Noahide Laws
 - a. *Dinim*
 - b. Positive or Negative Commandment?
 - c. Torah Law vs. Civil Law
 - d. Talmud Sanhedrin 56b

Deriving the Noahide Laws II



Introduction

In the last lesson we reviewed the rules and trends governing the derivation of the Noahide laws. We saw that the “7 laws” are actually 7 categories of principles expressing God’s will for all humanity. We also saw that the *Gaonim* (scholars in the Middle East from about 589 to 1038 CE) and *Rishonim* compiled statements of the expanded Noahide laws. In this lesson, we will continue with the derivation of the Noahide laws and talk about unique aspects of each of the 7 categories.

Rabbi Moshe bar Maimon (Maimonides or The Rambam, 1140 – 1205 C.E.)

Until the modern era, the most sophisticated elaboration of the Noahide laws was found in the [Mishnah Torah](#) (also known as the *Yad HaChazaka*) of [Rabbi Moshe bar Maimon](#) (also known as Maimonides or the Rambam). The *Mishnah Torah* is a far-reaching and detailed systemization of *Halacha* (Torah practice and law). Although it is not the definitive work on Torah law (that would be [Rabbi Yosef Karo’s Shulchan Aruch](#) completed in 1555) it has exerted more influence on the codification of Torah law than any other work since the sealing of the Talmud.

What sets the *Mishnah Torah* apart from other codes is its scope. Torah scholars before and after Maimonides tend to limit their studies only to the practical *mitzvos* (commandments). However, the *Mishnah Torah* seeks to explain every law of the Torah, whether it applies nowadays or not. The Noahide observances, since they were not a practical subject of study for much of Jewish history, were not given much attention by other authorities. However, Maimonides examines them in detail. His writings are of the utmost importance for studying the Noahide laws.

However, three points must be kept in mind when studying Maimonides's writings:

- 1) Maimonides's word is not the final word. What he writes, though, is of the utmost importance for study and understanding.
- 2) Maimonides writes "in a vacuum." This means that he does not always indicate where or when a given idea applies or if it is relevant nowadays. Also, Maimonides never indicates his sources. When studying his works, one must always determine his sources, if the given law applies today or only in the future, and if it applies in Israel, the Diaspora, or both. Many of his writings regarding non-Jews and Noahides do not apply in our times. However, this is not always apparent from the text.
- 3) Maimonides's writings on the Noahide laws are not found in any one place. Though mostly concentrated in [chapters 9 and 10 of *Hilchos Melakhim*](#), many are scattered among numerous other topics. Also, laws in one location often modify those in another. A student must know the complete picture to fully understand Maimonides's thought.

Although Maimonides is the most important writer on the Noahide laws, his writings cannot be taken at face value. They require detailed analysis and explanation before they can be applied practically.

Later Authorities

Understandably, authorities after Maimonides remained focused on practical matters affecting the Jewish community in exile. Much of Maimonides's Noahide writings do not find their way into later works. The *Shulchan Aruch* (the authoritative summation of Jewish law), for example, contains only scant reference to Noahide issues.

However, the Noahide laws are frequently discussed in the [responsa literature](#). Responsa (in Hebrew *She'elos u-Teshuvos*, "questions and answers") are collections of questions to famous [poskim](#) (decisors of Jewish law) and their responses. Since the exile, Jews around the world have sent their most difficult queries on thought and practice to the *poskim*. Thankfully, the *poskim* wrote back and their responses were preserved for posterity. While the codes of law are general guides to practice, the responsa literature illustrates actual cases of "Torah in-action."

Throughout Jewish history, many questions were asked to *poskim* about the Torah's expectations for non-Jews. After Maimonides's writings, the responsa literature is the most important collection of sources for studying the Noahide laws.

In summary: The Talmud explains the references and derivation of the Noahide laws from the text of the Torah. It does not list all of the laws, only some as examples. The *Gaonim* (i.e. R' Shmuel bar Chofni Gaon) compiled lists of the laws and their subdivisions. Maimonides elaborated upon the Noahide laws and how they fit into the larger scope of Torah law. His writings are foundational for any study of the Noahide laws. The *poskim* (later authorities) provide guidance and insights into the “real-world” application of the Noahide laws.

The Importance of Torah Study

All of this may seem like a lot of work to come to an understanding of religious belief and practice. However, the effort involved is not unique to the Noahide laws. The derivation of Jewish law is also incredibly detailed, requiring scholarship and tremendous mental acuity. Why do we need to put so much thought and effort into it, though? Why, some ask, couldn't God just tell us all the rules?

A fundamental belief of Judaism and Noahism is that God wants us to study the Torah deeply and exhaustively. By doing so we engage directly with God's eternal will. The deeper we delve into the Torah, the more we connect with and understand God. Remember – God wants us to engage with him and he wants to engage with us.

If prayer is our speaking to God, then Torah study is God speaking to us.

Also, practically speaking, a mere list of rules can easily come to be ignored. However, something into which one has delved and invested his whole being becomes deeply ingrained. Ingrained, studied material is neither easily ignored nor forgotten.

Introductions to the Seven Categories

This lesson and the following one will provide a brief overview of general concepts unique to each of the Seven Categories of Noahism.

***Dinim* – The Requirement to Exercise Justice**

**Positive or
Negative
Commandment?**

And Dinah the daughter of Leah, whom she had borne unto Jacob, went out to see the daughters of the land. Shechem the son of Hamor the Hivite, the prince of the land, saw her; and he took her, and lay with her... two of the sons of Jacob, Simeon and Levi, Dinah's brethren, took each man his sword, and came upon the city unawares, and slew all the males. The sons of Jacob came upon the slain, and spoiled the city, because they had defiled their sister... And Jacob said to Simeon and Levi: 'You have aggrieved me, and made me hateful to the inhabitants of the land...'

Genesis 34

Maimonides¹ explains that the entire city of Shechem was put to death for failing to bring Dinah's assailants to justice; the entire city transgressed the *mitzvah* of *dinim* – the requirement to exercise justice.

[Nachmanides](#), however, perceives a big problem with this interpretation. The Talmud² teaches that Noahides are only liable for the death penalty for transgressing a negative commandment (meaning a prohibition – a *thou shalt not*). The failure of Shechem to try the alleged perpetrators is the transgression of a positive (*thou shalt*) *mitzvah* – the commandment to establish and carry out justice. Since it is the transgression of a positive *mitzvah*, then why did Shechem deserve death?

The [Meiri](#) provides an insightful answer from the Talmud itself. The Talmud³ tells us that the Seven Noahide laws are listed as prohibitions, negative commandments. The Talmud itself questions this idea, though, asking: If all of the Noahide laws are prohibitions, then why is *dinim* included? Is not *dinim*, the requirement to carry out justice, a positive commandment? The Talmud answers that the Noahide laws are merely listed according to their negative, prohibitive qualities. In truth, though, the Noahide laws are not 100% prohibitive in nature. Similarly, *dinim*, the requirement to establish courts, is not a purely positive commandment. It includes both positive and negative aspects.

In one sense it requires the establishment of courts and enforcement of the laws (the positive aspects). It also prohibits perversions of justice and the allowance of crime to run rampant (the negative, prohibitive aspects). Therefore, by not trying the crimes against Dinah, Shechem violated the negative/prohibitive aspect of *dinim*, and for this deserved death.

Based upon this understanding of *dinim*, we see that *dinim* includes laws pertaining to the establishment and operation of a legal system (*thou shalt's*) and prohibitions to prevent perversions and laxity (*thou shalt not's*). As a general rule, the Seven Noahide laws, despite being termed as prohibitions, contain positive as well as negative *mitzvos*.

¹ [Hilchos Melakhim 9:14](#).

² [Sanhedrin 57a](#) teaches that they are liable for transgressing any *mitzvah* for which they were forewarned. Later, on [59a](#), it is clarified that this only applies to the negative *mitzvos*.

³ [Sanhedrin 58b-59a](#).

**Torah Law vs.
Civil Law**

By what standard do Noahide courts establish themselves, create, try and enforce their laws? Shall they base their *dinim*, legal systems, on their own logic and needs of the time? Or, perhaps, should their laws be based on Torah law?

Nachmanides holds that the Noahide legal system is based upon the same system outlined by the Torah for Jews.⁴ According to his opinion the same laws governing loans or partnerships between Jews would apply to loans and partnerships between Noahides.⁵

If Nachmanides's opinion is the rule, then today's secular courts are not fulfilling the *mitzvah* of *dinim*. Therefore, Noahides cannot sue in secular court and must use either a *beis din* (Jewish religious court) or a specially convened court of Noahides who are experts in their laws.

However, Maimonides⁶ disagrees with Nachmanides:

It devolves upon the judges to create equitable rules, appropriate for each country, according to the ways in which the nations currently handle such matters... "The law of the land is the law."

The civil courts and the laws they establish fulfill the *mitzvah* of *dinim* for Noahides. According to the Ri Anatoli and Maimonides, it is not necessary for the particular laws of the Noahide courts to match the details of Torah law as given to the Jews. Therefore modern courts are 100% satisfying the requirement of *dinim* and it is a *mitzvah* for Noahides to use them.

The [Rama](#) explains these differences of opinion as having their source in the Talmud.

**Talmud
[Sanhedrin 56b](#)**

L-rd God commanded man, saying "Of every tree of the garden you may surely eat.
Genesis 2:16

The Talmud explains that [Rabbi Yochanan](#) learns *dinim* from the word *V'ayatzav* – *And he commanded...*, relating the use of the word here to its use in Genesis 18:19:

⁴ See Nachmanides's commentary to Genesis 34:35. Of course, there are obvious exceptions to this rule to which even Nachmanides would agree.

⁵ There would be some slight differences with regard to interest charged or paid, but the laws would fundamentally be the same.

⁶ Maimonides's take on the matter is not immediately apparent in his writings. Nevertheless, his position can be derived by implication. As a result, most major *poskim* see this issue as part of a larger disagreement between Maimonides and Nachmanides as to the nature and scope of *dinim*. See Shu"t [Maharam Shick](#) OC 142, [Shu"t Maharsbam](#) IV: 86; [Arnei Nesser](#) CM 55.

*For I have known him, that he will **command** his children and his household after him that they will keep the way of God, to do righteousness and justice.*

This verse is pertaining to Abraham's household and their observance of God's law. Since no complete code of civil law had yet been given at the time of Abraham, then this verse must be referring to any logically derived system of civil law. Therefore, *dinim* is satisfied by the establishment of any logically derived, well regulated system of law.

However, [Rabbi Yitzchok](#) derives *dinim* from the word *Elokim*, God:

*L-rd **God** commanded man, saying "Of every tree of the garden you may surely eat.
Genesis 2:16*

Rabbi Yitzchok relates the word's use here to the use of the word *Elokim* in Exodus 22:7:

*The master of the house shall approach the **judge**...*

In this verse the word *Elokim* means "judge," and implies a system of civil law (*Elokim* may have either meaning depending on context). Since this verse is pertaining to laws after the giving of the Torah, then it must be referring to an established legal system: the Torah legal system. By connecting the reference to *dinim* in Genesis 2:16 to this verse in Exodus 22:7, Rabbi Yitzchok is telling us that Noahide courts must follow the civil laws set forth in the Torah.

So: Nachmanides appears to hold like Rabbi Yochanan. Maimonides, though, appears to hold like Rabbi Yitzchok.

The discussion continues among later authorities. The Rama concludes like Rabbi Yochanan and the Nachmanides: certain aspects of civil law are fundamentally the same between Jews and non-Jews; it follows the Torah's mandates. Many other later authorities take the same view⁷.

However many formidable *poskim*⁸ conclude like Maimonides: The laws established by the secular courts are sufficient for Non-Jews.

Whose opinion is definitive? The answer to this question requires more space than we have here. It will be discussed in later lessons on civil and monetary laws.

⁷There are others who share this opinion. See for example, *Tumim* 110:3 and *Minchas Chinuch* 414 & 415, [Chasam Sofer](#) CM 91.

⁸See [HaEmek Shaylah](#) #2:3; [Chazon Ish](#), *Bava Kamma* 10:1

Summary of the Lesson

1. Maimonides delved extensively into the Noahide laws in his *Mishnah Torah*. This medieval exposition on Torah law is the most influential work since the sealing of the Talmud and, by far, the most important work for the study of the Noahide laws. However, it is by no means the final, definitive word on either Jewish or Noahide practice
2. Much of the material needed for a complete practical understanding of the Noahide laws comes from the writings of the *poskim*, the later decisors of Jewish law.
3. Why do the Noahide laws require so much study and intense analysis? The answer is that all Torah requires intense study and analysis. Not only is it needed from an intellectual standpoint, in order to refine and clarify matters, but it is also a spiritual exercise that ingrains the Torah within us.
4. The seven Noahide laws, although termed and listed as prohibitions, contain both positive and negative *mitzvos*. For example, *dinim* both requires the establishment of courts (a positive commandment) and the prevention of perversion of justice (a negative commandment).
5. Whether the requirement of *dinim*, Noahide civil law, is fulfilled by today's secular courts or only by courts exercising Torah law is a matter of extensive discussion among the authorities.