

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH PROJECT

The Noahide Laws - Lesson Fifty-Eight



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Dinim I: Introduction

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Introduction

The *mitzvah* of *dinim*, civil law, is one of the trickiest of the Noahide laws to both define and understand in terms of its real world applications. Much of this difficulty is historical in origin. Since the Jewish world has always maintained and used its own religious courts to judge monetary disputes, there was never a practical occasion or need to address the Noahide laws of *dinim*. This was the case until 1550 when a legal dispute prompted a massive evaluation by scholars of Noahide *dinim*.

The Basics of *Dinim*

Although the Talmud reads the earliest reference to *dinim* from Genesis 2:16, the Torah is abound with references to the concept and need for justice. For example, Genesis 9:5-6:

*I will certainly demand the blood of your lives; at the hand of every beast I shall require it, and at the hand of man, even at the hand of every man's brother, I shall require the life of man.
Whoever spills a man's blood, by man shall his blood be spilled...*

This verse clearly states a judgment and punishment for a murderer, requiring the punishment to be carried out at the hands of man. The Midrash expounds upon many other examples of pre-Sinaitic expectations for justice. Maimonides distills these allusions into the following description from [*Hilchos Melachim 9:14*](#):

**Maimonides,
Hilchos
Melachim 9:14**

How do the gentiles fulfill the commandment to establish laws and courts? They are obligated to set up judges and magistrates in every major city to render judgment concerning these six mitzvot and to admonish the people regarding their observance.

A gentile who transgresses these seven commands shall be executed by decapitation. For this reason, all the inhabitants of Shechem were obligated to die. Shechem kidnapped. They observed and were aware of his deeds, but did not judge him.

Maimonides's makes three very important points:

- 1) ***They are obligated to appoint judges and magistrates in every major city...*** *Dinim* obligates Noahides in the establishment of courts.¹ The purpose of these courts, and indeed the essence of *dinim*, is to establish order between man and his fellow. This is because God places more emphasis on harmony between men than between Himself and man. Rashi² points out that this is the reason the generation of the flood and Sodom and Gomorrah were destroyed, while the generation of the Tower of Bavel was only dispersed. In the times of the flood and of Sodom and Gomorrah, the main sins were between man and his fellow. Therefore, they were destroyed. However, in the times of the tower, their sins were primarily between man and God, therefore God was lenient with them.
- 2) ***...to render judgment concerning the other six mitzvos...*** What is the content of the laws of *dinim*? Maimonides states that these laws are fundamentally procedural: they apply to the courts and consist of rules and methods for administering judgment for the other Noahide laws. It does not appear, according to Maimonides, that *dinim* includes matters of substantive law – actual prohibitions or demands on societal or individual behavior.
- 3) ***... and to admonish the people in their observance.*** It is a requirement of the courts to engage in public education of the Noahide laws.³

According to Maimonides, it appears that Noahide courts fulfilling these three fundamental purposes meet the standards for *dinim*. However, this proposition is

¹ See Sanhedrin 56b.

² Gen. 11:9.

³ See *Chemdas Yisrael* 9:29; [Machaneh Chaim](#) II:22.

not so simple. The question of content, point #2 above gets us into complicated waters.

Sanhedrin 56b: R' Yochanan & R' Yitzchok

To grasp the issues involved, we first have to look at a passage from **Sanhedrin 56b**:

From where is this [the Seven Noahide Laws] learned? Rabbi Yochanan says it is from the verse:

*“HaShem, God, **commanded** unto the man, saying: Of evert tree of the garden you may surely eat.⁴”*

*...**commanded**... This alludes to dinim, for it [the Torah] says similarly:*

*“For I know him - that he will **command** his children and his household after him that they may keep the way of HaShem to do justice...⁵”*

When Rabbi Yitzchok arrived, he taught the opposite:

*...**commanded**... This alludes to idolatry.*

*...**God**... This alludes to dinim.*

*It is understandable that ...**God**... alludes to civil law, for it is written:*

“The master of the house shall approach the elohim, judge.⁶”

*However, from where do we see that ...**commanded**... is an allusion to idolatry? **Rav Chisda** and **Rav Yitzchok bar Avdimi** each found a source. One said it was:*

*“They have turned aside quickly from the way that I **commanded** them.⁷”*
[Referring to turning away from God and to idolatry]

The other said it from:

⁴ Genesis 2:16.

⁵ Genesis 18:19.

⁶ Exodus 22:7.

⁷ Exodus 32:8.

“Suppressed is Ephraim, crushed by judgment, because he willingly walked after the commandment [of the idolaters]”⁸

What are the practical differences between these two verses?

The Talmud then embarks on a comparison of the implications and ramifications of the two verses pertaining to idolatry. However, the Talmud does not likewise examine any implications of the two verses referring to *dinim*. 1200 years later, this subtle omission would play an important role in a copyright dispute between two Venetian printers.

Katzenellenbogen & Bragadini v. Guistiniani, Venice 1550

In 1550 Alvise Bragadini, a Venetian non-Jewish printer/publisher, partnered with [Rav Meir Katzenellenbogen](#) to publish a landmark edition of Maimonides’s *Mishneh Torah* with Rav Meir’s critical emendations. It was a massive undertaking that required tremendous money and labor. At the same time, Marco Antonio Guistiniani, Bragadini’s chief competitor and rival (also not Jewish), was preparing a virtually identical edition that also incorporated Rav Meir’s work, albeit uncredited.

The copyright law of the Venetian Republic would provide little protection for Rav Meir and Bragadini’s project. Realizing the secular courts were of no help, Bragadini and Rav Meir appealed to the court of [Rav Moshe Isserles](#) (the Rama), the famed Rosh Yeshiva and *halakbic* authority of Krakow, to judge whose copyright was valid. They knew Rav Isserles’s ruling would carry tremendous weight in the Jewish community and, if in their favor, would ensure their success.

For the first time in over 1000 years, a Jewish court was asked to judge a case between two non-Jews: did Guistiniani infringe on Bragadini’s copyright? This case brought up a fundamental question: should the printers be judged according to Torah law, or Noahide law? If Noahide law, then what procedures and standards are dictated by their *mitzvah* of *dinim*?

⁸ Hoshea 5:11.

**Rav Moshe
Isserles: *Sheelos
U'teshuvos
HaRama, No. 10***

The Rama begins his analysis by noting the omission we observed in Sanhedrin 56b: Why did the Talmud not bother comparing the implications of the verses cited by Rabbis Yochanan and Yitzchok on *dinim*? The Rama writes that there was no reason for the Talmud to explain the differences between R' Yochanan and R' Yitzchok's verses because the differences are extremely obvious, "as clear as the noonday sun." The Rama explains:

*Rabbi Yochanan says **dinim** are learned from ...**commanded**... and we know that ...**commanded**... implies **dinim** this because of its use in Genesis 18:19. Note that this verse was stated prior to the giving of the Torah's judicial laws. Therefore, according to this verse the expectation was for Noahides to base their laws and customs of justice on their own needs and customs.*

*Rabbi Yitzchok says **dinim** are learned from ...**God**..., citing Exodus 22:7. This verse was stated after the giving of the Torah and specifically refers, in context, to the Torah's civil laws. Rabbi Yitzchok holds, therefore, that Noahides are expected to judge according to the statutes of Torah civil law.*

The Rama concludes that the *halacha* is like **Rabbi Yitzchok**: in all matters of monetary and civil law, Noahide law is identical to Jewish law (except when clear exceptions are demonstrated in the Talmud). In his examination of copyrights, it is clear that the Rama extends this principle even to rabbinic laws! Therefore, *dinim* is substantive as well as procedural. Not only does it obligate Noahides to set up courts and administer justice, but it requires the court, for all intents and purposes, to judge two Noahides as a *beis din* would judge Jews. *Dinim* mandates that the substance of the monetary laws is, from the court's perspective, no different than the Jewish laws.

Reception of the Rama's Ruling

This opinion is difficult in the extreme and few later authorities accept it entirely. Though many later authorities accepted the Rama's basic assertion that Noahide and Jewish monetary law is the same,⁹ many have disagreed, raising major issues with the Rama's ruling:

- 1) ***Aruch LaNer*** – Takes issue with the Rama's opening premise: that the reason for the Talmud not comparing the implications of Rabbis Yochanan and Yitzchok's verses is that their implications are "as clear as the noon-day sun." According to the *Aruch LaNer*, the opposite is actually the case: The Talmud doesn't compare them because they do not imply

⁹ I.e. *Tumim* 110:3; *Responsa Nachalas Yaakov* 3.

any practical differences. When distinctions between verses are implied, the Talmud discusses and examines them. For example, the verses dealing with idolatry warranted further comparison because one verse is from the Torah while the other is from the Prophets. Since they are from two different levels of scriptural authority, they must apply in different ways. The **Aruch LaNer** therefore rejects the entire premise of the Rama that these verses imply anything about the nature of *dinim*.

- 2) ***Asmachta vs. Horaah*** - Most commentators understand Sanhedrin's citation and discussion of Genesis 2:16 as *asmachta* – evidence of or reference to the Noahide laws – and not as the actual derivation of the Noahide laws (*horaah*). If so, then the Rama's analysis is misplaced.¹⁰
- 3) **[Rabbi Naftali Tzvi Yehudah Berlin \(the Netziv\) in his *HaEmek HaShaila*](#)**¹¹ - In Chagigah 13a the Talmud supports the prohibition against Jews teaching Torah to non-Jews from the verse:

*He relates his word to Jacob, His statutes and laws to Israel. Yet, He did not do so for any other nation; Mishpatim [civil and monetary laws] they shall not know.*¹²

This verse specifically teaches that the Jewish civil and monetary laws were not commanded to non-Jews. Furthermore, by making Noahides subject to all the Torah requirements for civil and monetary laws, the prohibition against non-Jewish Torah study is rendered pointless! In order to carryout *dinim* according to the Rama, Noahides would have to study almost the entire Torah to the same level and degree as Jews!

- 4) **The Talmud itself** - The Talmud's main presentation of the Noahide laws is according to Rav Yochanan. Furthermore, the Midrash also explains *dinim* according to Rav Yochanan.¹³
- 5) **Before Sinai vs. After Sinai** - If Noahides civil and monetary law is the same as Jewish law, then what was *dinim* before Jewish law existed

¹⁰ See *Kesef Mishnah* to *Hilchos Melachim* 9.

¹¹ 2.

¹² Psalms 147:19-20.

¹³ See *Midrash Tanchuma, Parshas Shoftim; Shemos Rabbah* 30:9.

(meaning before Sinai)? The Rama notes this question and, in answering it, offers a proof to his position based on Sanhedrin 56b:

Dinim – are Noahides actually commanded in this? Was it not taught in a braisa: “Ten commandments were given to Israel at Marah!¹⁴ the seven the Noahides had previously accepted upon themselves, to which were added dinim, the Shabbos, and honoring ones parents.” [This Braisa implies that dinim, the obligations of civil and monetary law, were only given to Israel. If the Noahides were already commanded in dinim, then why was Israel again commanded in it?]

The Talmud proposes a number of answers to this question, all of which are rejected. The Rama points out that there is an obvious and excellent answer that the Talmud neglects to consider: prior to Marah, the Israelites were commanded in *dinim* according to the Noahide laws. However, at Marah, the specific Jewish details of the laws were added to preexisting Noahide *dinim*.

The Rama writes that the fact that this answer was not proposed by the Talmud indicates the Talmud assumed the Jewish details of *dinim* were already part of the Noahide *mitzvah* of *dinim*.

The problem with this proof is that the Talmud, at the end of its discussion of this *braisa*, concludes that the *Beraisa's* implications are irrelevant because this *braisa* does not represent the *Halacha* – in fact, according to this *braisa* Noahides were never commanded in the laws of *dinim*! The Rama's point, that the Talmud could have answered that the specific Jewish details of *dinim* were added at Marah, is a good point. However, since the whole discussion is only theoretical (because the *braisa* is rejected as *Halacha*) it cannot prove anything as to what the Talmud teaches as halachic fact.

- 6) **Precedents?** A final problem is that the Rema appears to, uncharacteristically, not have considered the *rishonic* evidence contradicting his ruling. Instead, the Rama goes directly to the Talmud, skipping over the [Rishonic](#) literature.¹⁵ Two Rishonim, in particular, need to be noted.

¹⁴ During the encampment at Marah, the Torah says that Israel was given a number of *mitzvos* (Exodus 15:25). However, it does not specify what these commandments were.

¹⁵ There are many *rishonim* who clearly contradict the Rema. See *Maimonides, Hilchos Melachim* 10:10; *Shu"t Ritva* 14 in *Bais Yosef, CM* 66:18; *Tosafos, Erubin* 62a; *Sefer ha-Ikkarim* 1:25. However, I [Rabbi Bloomenstiel] was unable to find a clear precedent for the Rema's opinion anywhere in the *rishonim*.

Maimonides

The Rama tries to muster proof from Maimonides, citing the fact that Maimonides holds that many details of the Noahide prohibitions (i.e. theft, idolatry, etc.) are identical to Jewish prohibitions. However, these attempts do not succeed considering that Maimonides also wrote the following:

When two non-Jews come before you to have their dispute judged according to Jewish law, then if they both desire to be judged according to Torah law, they should be judged so. If one desires to be judged according to Torah law and the other does not, they are forced to be judged according to their own laws.¹⁶

According to this ruling, Noahides have no obligation to judge according to Torah law. Later scholars have noted that further examinations of Maimonides's writings reveal it is impossible to read Maimonides as supporting the Rama; rather, Maimonides explicitly contradicts him!¹⁷

Furthermore, there is not a single *rishonim* that explicitly supports the Rema. In fact, the *rishonim* disagree with the Rema; some explicitly and others by implication.¹⁸

For us to accept such a controversial idea as *halacha*, it is essential that we establish the Rema's opinion within mesorah. We do so by finding explicit evidence of an earlier tradition supporting him. Are there any precedents that support the Rama? We will save this question for the next lesson.

Summary

1. The two basic requirements of *dinim* are: the establishing of courts, and public education.
2. There is the additional question of the substance of *dinim*. Maimonides holds it is merely procedural law teaching how to judge other cases.

¹⁶ *Hilchos Melachim* 10:12.

¹⁷ See *Minchas Shlomo* I: 86; *Shu"t Yechaveh Daas* IV: 65; *Tzitz Eliezer* XVI: 55.

¹⁸ *Maimonides*, *Hilchos Melachim* 10:10; *Shu"t Ritva* 14 in *Bais Yosef*, CM 66:18; *Tosafos*, *Erwin* 62a; *Sefer ha-Ikkarim* 1:25.

3. The Rama holds that *dinim* is not only procedural, but substantive as well: it obligates Noahides in all the details of Jewish civil and monetary law. This apparently includes rabbinic as well as biblical edicts.
4. Virtually no later authority accepts the entirety of the Rama's ruling. Many, however, accept his basic conclusion that Noahide monetary and civil law are fundamentally the same as Jewish monetary and civil law.
5. Despite its acceptance by some, the Rama's ruling was not generally well received by the rest of the rabbinic community. It presents a number of fundamental challenges in both substance and method that are atypical of the Rama.