



The RaBad was a kabbalist Rabbi from Posquières in Provence

Reactions to Mishneh Torah

RaBad: Maimonides' Most Severe Critic

Maimonides' main critic, Abraham Ben David of Posquières in Provence (also known as RaBad), argued that multiplicity of opinions is a positive and vital force in Jewish law.

A disagreement on method

Maimonides' severest critic arose in his own lifetime: Rabad, known as one of the greatest halakhic authorities, was the head of a *yeshivah* in Posquieres. He appreciated some of the extraordinary merits of the *Mishneh Torah* and expressed agreement with many of the laws in it. His severe strictures on the *Mishneh Torah* were certainly not intended *ad hominem* or as an expression of personal pique or anger. Nor was he jealous of the fame of Maimonides' *Mishneh Torah*. Rabad's strong disagreement was with Maimonides' method of declaring the law without citing the sources and without setting out the range of opinions on each legal issue--information which is vital to the very essence of Jewish law and to the methodology of halakhic decision making.

Rabad took aim at this feature of Maimonides' code from the very start, in the first of his critical glosses (*hassagot*) to Maimonides' Introduction to the *Mishneh Torah*. Against that very "revolutionary" passage of Maimonides :

"Hence, I have entitled this work Mishneh Torah, for the reason that a person who first reads the Torah and then this work will know from it all of the Oral Law, and there will be no need to read any other book [written] between them".

Rabad leveled the following charge:

"Abraham [Rabad] says: He sought to improve, but he did not improve, for he has forsaken the method of all authors who preceded him; they adduced proof and cited the authority for their statements. This [traditional method] was of great value, for often a judge is inclined to declare something prohibited or permitted on the basis of a particular source, but if he knew that an authority greater than himself took a different view, he would change his mind. Now, I do not know why I should retract my tradition and my proof on account of the work of this author [Maimonides]. If the one who takes issue with me is greater than I, well and good; but if I am greater than he, why should I yield my opinion in favor of his? Furthermore, on some matters the geonim were divided, and this author chose one opinion [over the others] and put it in his book.

Why should I be governed by his choice if it seems wrong to me, and I do not know whether the holder of the opposing view is entitled to deference? This is simply overweening pride in him."

Arguments for Independent Judgment

In Rabad's opinion, the *Mishneh Torah's* statement of only a single unattributed view deprives the judge of the means to make up his own mind and impairs his power of decision. The judge may be aware of an opinion opposed to the one stated in the *Mishneh Torah*, but he cannot know which opinion should prevail, because he does not know the weight of the nameless authority whose view is set forth in the *Mishneh Torah*. The judge may sometimes be unaware of a difference of opinion among the geonim, which, had he known of it, he would have, in the exercise of his independent judgment, resolved one way; but Maimonides' method of stating the law has preempted this opportunity and has decided the case for him the other way. The effect is to deny the judge the power of independent judgment essential to his basic function, which is to decide the case before him.

Rabad was not content merely to express general opposition in principle to Maimonides' methodology. He was justified in his fear that a work so excellent and comprehensive and so easy to study and understand would gradually supplant the study of all the rest of halakhic literature. Therefore, in spite of his advanced age, he reviewed the entire *Mishneh Torah* and wrote critical glosses to many of the laws it contains. These glosses were terse, and often sharp. Their object was to draw attention to incongruities and inconsistencies between the law as set forth by Maimonides and the law in the talmudic sources, and to instances where Maimonides reached legal conclusions on the basis of halakhic methods and analyses that were not generally accepted. In this way, Rabad hoped to impel the readers of Maimonides' code to check the correctness of Maimonides' statements against the talmudic sources and the geonic literature.

Source: Extract from Menachem Elon, *Jewish Law : History, sources, principles (Volume 4)*, Jewish Publication Society of America, January 1994.