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## The Influence of Islamic Culture on Maimonides in the Development of Mishnah's Legislation

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### ABSTRACT

*Maimonides, as a jurist, aimed to develop the Mishnah's legislations; so, he wrote his book Mishnah Torah, which included the Mishnah's legislations, and added to it legislations to fill the gap in provisions of the Mishnah. Maimonides used the books of the rabbinic heritage to complete this deficiency in the legislation. He reclassified these legislations objectively in his book Mishnah Torah, which he wrote in Egypt in 1117 AD, according to the method of Islamic jurisprudence books and Al-Muhalla by Ibn Hazm in particular. The current paper discusses the classification and division of the Mishnah and the Mishnah Torah, in order to find out the legislations that Maimonides added to the Mishnah. Also, it clarifies Maimonides' motive for authoring Mishnah Torah. Additionally, this paper illustrates how the Islamic culture influenced on the classification and division of the Mishnah Torah according to the subject. Clearly, Maimonides was influenced in his book Mishnah Torah by Islamic jurisprudence and the book of Ibn Hazm; Al-Muhalla in particular. He reclassified some legislations in Mishnah Torah objectively according to a method of Islamic jurisprudence books.*

**Keywords:** Al-Muhalla, Ibn Hazm, Islamic culture, Maimonides, Mishneh Torah.

Maimonides (1135 - 1204 CE) has attracted the attention of scholars as a philosopher and jurist. His book Mishneh Torah, in jurisprudence, did not gain the appreciation it deserves. Worse still, it faced severe opposition and attack from his contemporaries who wanted to prevent its circulation (Maimon 1957: 19). The aim of the current paper is to shed light on Maimonides as a jurist and to show the reasons that prompted him to write Mishneh Torah. Also, this essay discusses whether the Mishneh Torah was a development of the Mishnah and detects the sources that leaned on it. Additionally, this study illustrates the Islamic model which Maimonides traced in the classification and division of the Mishneh Torah and shows whether its development is attributed to Maimonides or not. The comparative approach is used to answer these questions and make a comparison between the Mishnah and Mishneh Torah in terms of classification and division. Maimonides began the Mishneh Torah with a book prefaced with monotheism. He named it *Halachot Yesodei HaTorah*, in which he agreed with Ibn Hazm al-Qurtubi (994-1064 AD), whose jurisprudential book *Al-Muhalla bi'l Athar* began with issues of monotheism. Therefore, a

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comparison between the content of the first book of Mishneh Torah, which is *Sefer HaMadá*, and the issues of monotheism in Ibn Hazm's *Al-Muhalla* book is to be held for highlighting the Influence of Islamic Culture on Maimonides in the development of Mishnah's legislation.

The Mishnah represents the oral law that Rabbis believe in while the Karaites deny it. It includes all the legislation set by the Rabbis of the Jews after their return from the Babylonian captivity. The Mishnah means everything that was orally legislated as a continuation of the written Torah. It includes an explanation and exegesis of the Torah, and provisions that were not mentioned in the Torah. They are deduced or based on the *Miqra*, transmitted from the prophets or Rabbis. They might have been got by way of analogy. The term Mishnah is often used to denote legislation (Albeck 1959: 1–2). The formation of the Mishnah legislation had stages as legislation was linked to the events and changes that occurred in life of the Jews (Albeck 1959: 63). In the beginning, bundles of legislation were formed, some of which were arranged according to the author of the legislation, as in the Tractate *Eduyot*, which belongs to the early stages of the Mishnah ordering; the stage of the Yavneh Sages (Albeck 1959: 82–83). Other legislations were arranged according to content, such as the collection of R. Akiva (Grats 1912 Vol.2: 274). Each rabbi had a set of laws identical in content, but different in language and wording (Weiss 1911: 184–185). Thus, before R. Yehuda ha-Nasi (135-219 AD) there was no Mishnah in this order or laws in one language (Albeck 1959: 66). R. Yehuda is the one who arranged the Mishnah we have (Albeck 1959: 99). He did not aim to prefer a select opinion to adopt it on applying (Albeck 1959: 66). He presented the different opinions and sometimes the argument that took place among Rabbis (Steinsaltz 1977: 45).

### Classification and Division of Mishnah

The Mishnah consists of six orders, in the order of Shimon ben Lakish; *Tohorot*, *Kodashim*, *Nezikin*, *Nashim*, *Moed*, *Zeraim*. Each order comprises an unequal number of tractates containing chapters, and each chapter contains a number of laws known as Mishnayos, the singular is Mishnah, which refers to a single piece of legislation (Albeck 1959: 125–127). Mishnah was initially an oral law. It was formulated in a compact language, but a very brief one, sometimes causing ambiguity (Steinsaltz 1988: 2). The first order of the Mishnah is *Zeraim*. This section includes provisions for farming, the commands and prohibitions imposed on those who work in agriculture, the shares of priests and Levites from land produce, and the alms that must be given to the poor. *Zeraim* consists of eleven tractates, ten of which are core, namely: "*Pe'ah*" i.e., the chapter on the crop whose issue is doubtful; did owner give the tithe or not? *Demai*, *Kil'ayim*, *Shevi'it*, *Terumot*, *Ma'aserot*, *Ma'aser Sheni*, *Challah*, *Orla*, and *Bikkurim* (Steinsaltz 1988: 37). The tractate contradicting the subject of this section is "Tractate *Berakhot*", which is the first chapter of *Zeraim*.

The second order of Mishnah is *Moed*. It includes the provisions relating to the Sabbath and the blessed days, in general, as well as the rituals specific to each holiday and season. It consists of twelve tractates, eleven of which are core, namely, *Shabbat*, *Eruvin*, *Pesahim*, *Yoma*, *Sukkah*, *Beitza*, *Rosh Hashanah*, *Ta'anit*, *Megillah*, *Mo'ed Katan*, and *Hagigah*. The Tractate contradicting the subject of this section was Tractate *Shekalim*", which deals with collecting the prescribed alms for the temple (Steinsaltz 1977: 69).

The third order of Mishnah is *Nashim*. It handles provisions related to the marital relationship and the obligations arising from it. It consists of seven tractates, five of which are consistent with the content of *Nashim*. They are: *Yevamot*, *Ketubot*, *Sotah*, *Gittin*, and *Kidushin*. The two Tractates that have nothing to do with the subject of this book are *Nedarim* which has nothing to do with the provisions of marriage (Steinsaltz 1988: 40), and the second is *Nazir*. It was included in this book because there is a similarity between it and *Nedarim* Tractate only, and it has absolutely nothing to do with marriage (Kehati 1977a: 40).

The fourth order of the Mishnah is *Nezikin*. This book includes various provisions, but the name does not apply to many of the legislations in it. It consists of ten tractates, namely, "Tractate *Bava Qamma*" on the damage caused by a bull, a beast, or fire. "Tractate *Bava Metzia*" deals with provisions relating to lost things and fraud in buying and selling. "Tractate *Bava Batra*" tackles partnership in properties, housing, provisions of the possession of houses. "Tractate *Sanhedrin*" deals with the formation of the role of the judiciary, the number of judges in each of them, who is

fit to judge, the method of deliberation among judges, the issuance of judgment, and the way punishment is imposed (Albeck & Yalon 1988: 163–164). “Tractate *Makot*” is a sequel to “Tractate *Sanhedrin*” (Albeck & Yalon 1988: 165). It complements the laws for false witnesses and those who deserve to be flogged. “Tractate *Shevuot*” got included with *Nezikin* because most of the oaths in it relate to financial matters (Albeck & Yalon 1988: 239-240). “Tractate *Horayot*” deals with provisions of the wrong instructions opinionated by the Sanhedrin or the high priest by way of oblivion. Three Tractates have nothing to do with the subject of the book, namely: Tractate *Eduyot*, which presents a series of testimony of the Mishnah scholars on various provisions that they heard them. The second Tractate, *Avodah Zarah*, has nothing to do with damages and penalties, as it deals with the acts of worship of non-Jews; to keep the Jews away from them (Steinsaltz 1988: 41). The third Tractate, *Avot*, differs from all Mishnah Tractates, both in its language and in its content. It does not include legislation but sayings and proverbs. It also includes praising the law and exalting its scholars (Dinur 1972: 20).

The fifth order of Mishnah is *Kodashim*. The subject of this book is the legislation related to offerings and service in the Holy Temple. It includes eleven Tractates, nine of which agree with the subject of the book, namely, *Zevachim*, *Menachot*, *Bekorot*, *Arachin*, *Temurah*, *Me'ilah*, *Tamid*, *Middot*, and *Kinnim*. There is a Tractate that is not directly related to the subject of the book. It deals with the sins for which a person is punished. This is “Tractate *Keritot*”, and it is seventh in order (Dinur 1972: 42). The Tractate contradicting the subject of the book is “Tractate *Hullin*” third in the order. Its main topic is the provisions for slaughtering sacrifices not intended for the Lord (Kehati 1977: Vol.9).

The sixth order of the Mishnah is *Tohorot*. This book investigates the legislations on various impurities, and how to get purified from each one of them. It consists of twelve Tractates, all of which are core: Tractate *Keilim*, *Oholot*, *Nega'im*, *Parah*, *Tohorot*, *Mikva'ot*, *Niddah*, *Makhshirin*, *Zavim*, *Tevul Yom*, *Yadayim*, and Tractate *Uktzim*.

### Maimonides' Motive for Authoring Mishnah Torah

Maimonides stated, in the introduction of Mishneh Torah, the motive for writing this book, he said:

“Our scholars have been lost and intellect of the brilliant has disappeared. Interpretations and legislations composed by the Geonim have become incomprehensible, and only a few understand their content as they should. There is no need to say that this applies to the Talmud proper, the Babylonian and the Jerusalem, Sifre, Sifra and Tosefta. These jurisprudential works require extensive knowledge and wisdom, and a long time in order for the correct legislations on forbidden matters and permissible matters to be known. That is why I compiled the sayings evident from all these books on the subject of the forbidden and the permissible, the unclean and the pure, with other rulings, in clear and concise language, so that the oral law gets clear for all without difficulty or difference” (Maimon 1957: 14–15).

Clearly, the real reason for writing the book is Maimonides' fear that Rabbinic Judaism would be lost because of the difficulty of the traditional books written by the forerunners. Therefore, he decided to write for rabbinical Jews a jurisprudential book that includes everything that was mentioned in the rabbinic heritage, as Anan bin Dawood did for Karaites in his book *HaMitzvot* (Corinaldi 1984: 63), and similar books written by Muslim jurists of different sects. In order to achieve the goal of writing his book, Maimonides wrote it in Egypt in 1117 AD in the Hebrew language, and in the Mishnah language specifically. He said: “language of *Miqra* is not currently able to express everything related to the provisions of law, and the language of the Talmud is not understood today by our people except for limited individuals, as it includes many Western and difficult words even for those familiar with the Talmud. So, I decided to write in the Mishnah language, so that it would be easy for the majority of people” (Maimon 1957: 1–2). Maimonides' goal in writing his book *Mishneh Torah* was to be a transcriber of Jewish law, so he called it the *Mishneh Torah*, because one reads the written Law in the beginning, and after that reads this book, to know from it all the oral law. One does not need to read another book between them (Maimon 1957: 15).

## Classification and Division of Mishneh Torah

Maimonides decided to violate the Mishnah chapter division. He divided Mishneh Torah into books, not orders, i.e., into fourteen books, not six orders. Each book of Mishneh Torah was divided into provisions instead of being divided into Tractates as in the Mishnah. Chapters were divided into legislations. Maimonides devoted the first book, *Sefer HaMadá*, for discussing the provisions that everyone should know. He started with provisions of foundations of Jewish law, foremost of which is monotheism, the provisions of morals and manners, the provisions for learning law and the manners that students of law adhere to, the provisions of worshiping for non-Jews, and the provisions on repentance are provided. It is clear from the five jurisprudence issues that only one of them is the one for which the Mishnah dedicated a tractate, it is the provisions for the worship of non-Jews. It was mentioned in the Tractate *Avodah Zarah* in *Nezikin*. As for the provisions of foundations of Jewish law, especially monotheism, Tannaim did not address them, as well as the provisions of repentance. They did not allocate an independent Tractate for it.

The second book of Mishneh Torah, *Sefer Ahavah*, includes the duties that Lord imposed on the Children of Israel, singling them out because of His love for them. It includes the following provisions: *Kri'at Shema*, *Tefilah* and *Birkat Kohanim*, *Tefillin*, *Mezuzah*, and *sefer Torah*, *Tzitzit*, *Berachot*, *Milah*, *Seder Tefilot*.

The third book of Mishneh Torah is *Sefer Zemanim*, i.e., the book of the provisions given at a specific time. The provisions in this book largely agree with the Tractates of order Moed. Maimonides added to *Sefer Zemanim* watching the crescent moon and defining the beginnings of months; being linked to a specific time. He added to this book provision of the inauguration of the Temple, which are known as Laws of *Chanukkah*. As for the arrangement of the provisions of this book, it was in contradiction to the arrangement of the Tractates of order Moed. Arrangement based on topic was taken into consideration, so he first displayed provisions of the Sabbath such as the order of the Mishnah, then followed them with the provisions of integrating the limitations of the Sabbath, like Mishnah order. Next, times in which the Torah forbade doing something are given, so he displayed the provisions for stopping work on the tenth day, which is the Day of Atonement. Then, the provisions for stopping work on the blessed day follow. Maimonides moved to the times that have no bond; provisions of leaven and unleavened bread, which are part of the provisions of the Passover. He separated it from the Passover sacrifice which he transmitted to *Sefer Korbanot*, violating the Mishnah and maintaining the unity of topic. Maimonides combined in this book two Tractates of the Mishnah; *Sukkah* and *Rosh Hashanah* and integrated them into Laws of the Ram's Horn, Booth, and Palm Branch. Then he mentioned in *Sefer Zemanim* the provisions of *Shekalim* which agree with the content of this book. Then Maimonides displayed provisions of sighting the crescent and determining the beginning of each month, for which the Mishnah did not single out a separate tractate, provisions of fasting, and provisions of the Book of Esther. He included these provisions with the provisions of *Chanukkah* which he also mentioned that it is not one of the obligations stipulated in the Torah and that it was a feast created to perpetuate the struggle of the Maccabees, and to show their heroism in liberating their countries from foreign domination (Klein & Roth 1992: 228).

The fourth book of Mishneh Torah is *Sefer Nashim*. Maimonides agreed with the Mishnah in naming the book dealing with the provisions concerning women, but he contradicted it in the rulings included in the book and in their arrangement. Maimonides kept the topic-based classification in his book. Therefore, he extracted from it the provisions in Tractates *Nadarim* and *Nazir* in Mishnah because it is not directly related to women. His book began with the provisions of marriage, *Ishut* laws, in contravention of Mishnah in order and naming, as it's the last in order *Nashim* and its name is Tractate *Kiddushin*, which gives a religious significance to the marriage contract. While it's the first in arrangement in *Sefer Nashim*. Maimonides also violated the Mishnah in arrangement of the Tractates, after marriage were the provisions of *Geirushin* laws, also violating name in the Mishnah, where this was called Tractate *Gittin*. Maimonides provided provisions of consummating the widow of the deceased brother without children, and the removal of the sandal, which he called *Yibum va-Chalitzah* laws, in contravention of Mishnah also in order and in naming.

The fifth book of Mishneh Torah is *Sefer Kedushah*. Maimonides committed in this book to classify on the basis of subject. He collected in this book ordinances which the Lord chose Children of Israel and made His people. He started it with the provisions of *Issurei Biah* laws, followed by the provisions of foods prohibited, *Ma'akhalot Assurot* laws, and ended it with the provisions of *Shechitah* laws, and what one must follow. Maimonides extracted these provisions from several Mishnah Tractates such as Tractate *Kiddushin*, *Hullin*, *Makhshirin*, and *Uktzim*, due to the presence of an objective link between them.

The sixth book of Mishneh Torah is *Sefer Hafla'ah*. Maimonides devoted this book to the provisions of vows and the like, i.e. provisions that occur by mere utterance, not by intention. This book includes the provisions of the oaths; *Shevuot* laws, the provisions of vows; *Nedarim* laws, the provisions of what one endows to the Lord from livestock and property; *Nezirot* laws and the provisions of what one endows to the Lord through prohibition; *Erachin* laws. Thus, Maimonides had collected provisions from four of the Tractates of Mishnah; *Nadarim*, *Nazir*, *Shevuot* and *Arakhin*.

The seventh book of Mishneh Torah is *Sefer Zeraim*. This book contains all the provisions related to the cultivation of the land, which came in Mishnah in order *Zeraim*. Mishnah had them in the first part, but Maimonides brought it in the seventh book, and gave it the same name that was given to it in the Mishnah. Maimonides had topic-based classification in his book; he therefore excluded Tractate *Berakhot* and placed it in the *Sefer Ahavah* violating the arrangement of the Mishnah. He started this book with the laws of forbidden mixtures, *Kil'ayim*, which are the same provisions in Tractate *Kil'ayim* in the Mishnah. Then he followed it with laws of obligatory gifts to the poor, *Aniyim*, which were distributed in Mishnah between Tractate *Pe'ah* and *Ma'aserot*. Maimonides followed that up with laws of obligatory gifts to the priests, *Terumot*, and agreed with Mishnah in what is given to priests and in name. Then, he mentioned laws of tithes, *Ma'aser* laws, which come out for the Levites independently, and followed that with laws of secondary tithes, *Ma'aser Sheni*. Maimonides combined in this book what was stated in Tractate *Ma'aser Sheni* and *Orlah*. Although the first fruits are offered to priests, he separated its provisions from *Terumot* laws and put them in this book under the name *Bikurim* laws. Maimonides concluded this book with laws of leaving the fields of the Land of Israel to lie fallow every seventh year, and the laws of the fiftieth year, which is the year of the jubilee, violating Mishnah which devoted a chapter to the laws of the seventh year; Tractate *Shevi'it*, it did not assign a chapter to the laws of the fiftieth year, but rather its laws mentioned in the Book of Jubilees, which is one of the external books dating back to the time of the Second Temple (Goldstein 1983: 63–86).

The eighth book of Mishneh Torah is *Sefer Avodah*. Maimonides assigned this book to provisions relating to God's Chosen House and service in it. It began with the provisions for building God's Chosen House, and the provisions for making the altar. Maimonides called these provisions; the laws of God's chosen house, *Bet HaBechirah* laws. Maimonides mentioned after those provisions, laws of the temple utensils and those who serve within and called these provisions *K'lei HaMikdash* laws. Then he displayed the provisions of entry to the sanctuary and named them *Bi'at HaMikdash* laws. Then he followed them with provisions of what is forbidden to be approached on the altar and named them *Issurei HaMizbe'ach* laws. He also dealt with the provisions for holocaust offering, the sin offerings, and the sacrifices of safety, which all in this book under the name of *Ma'aseh HaKorbanot* laws. He also mentioned provisions of the sacrifices daily presented on the altar and the additional sacrifices in *Temidim uMusafim* laws and the provisions of the sacrifices that were allocated to the Lord. His book concluded with the provisions of the misappropriation of consecrated property, which he called *Me'ilah* laws.

The ninth book of Mishneh Torah is *Sefer Korbanot*. Maimonides began this book with the provisions of the Passover offering; *Korban Pesach* laws, then the festival offering; *Korban Chagigah* laws, then the sacrifice of the firstborn beasts and tithe of the beasts, included in the *Bechorot* laws. Maimonides mentioned also the provisions for the sacrifice offered by an individual if he committed a sin in oblivion, or if the court issued a judgment that violates the law. He called these provisions; *Shegagot* laws. Then he assigned laws for those whose Incomplete Atonement except by offerings and named them *Mechussarey Kapparah* laws. He concluded this book with provisions for Substitution in beasts assigned to God, which he called *Temurah* laws.

The tenth book of Mishneh Torah is *Sefer Taharah*. It begins with the most severe types of impurity, which are the provisions of the Impurity Imparted by the dead, *Tumat Met* laws, then the provisions of the red heifer which he called *Para Aduma* laws whose burning ashes are used in ritual purification from the impurity of the dead, then the provisions of defilement by leprosy, *Tumat Zara'at*, provisions of those who defile the place of lying and sitting which he called them *Metamei Mischkav uMoschav* laws. Also, Maimonides mentioned provisions of all other impurities like provisions of the impurity of cadaver and semen and called them *She'ar Avot haTumot* laws. Then he followed these laws with the defilement of food provisions, *Tumat Ochalin* laws, and the provisions of the impurity of vessels, *Kelim* laws. He concluded this book with provisions of cleansing baths, *Mikvaot* laws. It is clear from what was stated in this book that Maimonides rearranged the legislations that mentioned in the order *Tohorot* in the Mishnah according to the degree and severity of impurity. He classified it objectively.

The eleventh book of Mishneh Torah is *Sefer Nezikim*. It agrees with the Mishnah in the name of the book but violated the Mishnah in its classification. Maimonides started it with provisions that cause financial harm and called them *Nizqei Mamon* laws. Then he mentioned provisions of theft, *Geneivah* laws, provisions of looting and loss, *Gezeilah v'Avidah* laws, and provisions of those humans who cause physical or financial harm, *Hovel uMaziq* laws. Maimonides concluded this book with the provisions for the murderers and life preservation which he called them *Rotzeah uShmirat Nefesh* laws.

The twelfth book of Mishneh Torah is *Sefer Kinyan*. It contradicted the Mishnah in classification and title. It began with the provisions of the sale, *Mechirah* laws, then provisions of the ownerless property, *Zechiyah uMatanah* laws, provisions of neighborhood, *Shchenim* laws, and provisions of agency and partnership, *Shluhin v'Shutafin* laws. Maimonides concluded this book with the provisions of the acquisition of slaves, *Avadim* laws. *Bava Batra* and *Bava Metzia*. The Mishnah did not dedicate a separate tractate to these provisions but mentioned scattered in *Bava Batra* and *Bava Metzia*.

The Thirteenth book of Mishneh Torah is *Sefer Mishpatim*. Maimonides devoted this book to the provisions of transactions. He started it with the provisions of rent, *Schirut* laws, then provisions of borrowing and deposit, *Sheilah uPiqadon* laws, provisions of those who lend and those who borrow, *Malveh v'Loveh* laws, then provisions of the plaintiff and defendant, *To'en v'Nit'an* laws. The book was concluded with the provisions of inheritance, *Nahalot* laws. Maimonides violated the classification of Mishnah in this book as Mishnah did not allocate a separate tractate to the provisions contained in this book, but rather were distributed between *Bava Batra* and *Bava Metzia*.

The fourteenth book of Mishneh Torah is *Sefer Shoftim*. Maimonides dedicated this book to the judiciary. He began it with the provisions for the formation of the justice court, and the punishments in their power to inflict. Then, he mentioned the provisions of witnesses, *Edut* laws, provisions of those who rebel against the teachings or disobey parents, *Mamrim* laws, provisions of mourning, *Evel* laws, and provisions of kings' coronation and going to war, *Melachim uMilhamoteyhem* laws. Maimonides disagreed with the Mishnah in the classification of this book, its division, and its title. He collected the provisions of this book from Tractates Sanhedrin and *Makot* in the Mishnah. As for the provisions of mourning, the Mishnah did not allocate a Tractate to them, and they mentioned within the minor tractates.

It is clear from the presentation of Mishneh Torah that the objective classification led to this severe difference between it and the Mishnah in tabulation, and on the other hand made it closer to Islamic jurisprudence works that depend on the objective topic-based classification of provisions. It is clear that Maimonides agreed with the books of Islamic jurisprudence "*Al Muwatta*" by Imam Malik (93-179 AH), "*Al-Umm*" by Imam Al-Shafi'i (150 -204 AH), and "*Al-Muhalla bi'l Athar*" by Ibn Hazm Al-Qurtubi in the objective classification of provisions, and in dividing them into worship, transactions, personal statuses marriage and divorce, and damages. Maimonides agreed with Imam Malik and Imam Al-Shafi'i in dividing the Mishneh Torah into books, but he did not commit to dividing each book into chapters as they did. Rather, he divided each book into jurisprudential issues as Ibn Hazm did. He divided *Al-Muhalla* into jurisprudential issues, not books and chapters. Maimonides agreed with the three books of jurisprudence in starting with acts of worship, but he agreed with Ibn Hazm in initiating monotheism before acts

of worship, and included with it all the provisions that he saw as the necessity of knowledge, such as morals, manners, provisions for learning the law, the manners that scholars of law adhere to, and the worship of non-Jews. The order of worship differed in the Mishneh Torah due to the different nature of worship in Judaism and Islam. Provisions of worship mentioned in eight books of the Mishneh Torah, and prayer mentioned in the second book, which is the first of the books of worship. Its order came after the recitation of the *Shema*, which includes an affirmation of monotheism. Yet, prayer was a substitute for offering sacrifices and it was not explicitly stipulated in the Torah (Penner 2012: 35–36). Based on the agreement between the two books; Mishneh Torah and *Al-Muhalla* in the previous provisions, we will compare the monotheism and repentance in Mishneh Torah with the monotheism and repentance issues of Ibn Hazm.

### The Islamic Culture and Mishnah Torah

This comparison between Mishneh Torah and the three books of jurisprudence in terms of classification and division shows that Mishneh Torah is more in agreement with *Al-Muhalla* of Ibn Hazm. Each of them differed in the beginning of the book with monotheism, as followed and familiar in the books of jurisprudence. Is this agreement between Maimonides and Ibn Hazm due to mere chance? or is it due to their common birthplace and the quality of upbringing? Maimonides and Ibn Hazm were born in Cordoba in Andalusia; Ibn Hazm is seventy-one years ahead of him. Both of them hailed from a noble family, and their upbringing was similar. Therefore, their interests were similar. Both wrote in jurisprudence, logic, theology, philosophy and medicine. Ibn Hazm excelled in the abundance of production, and the diversity of literature (Al-Hamawi 1993: 1651). Mishneh Torah and *Al-Muhalla* are books of jurisprudence, but the Mishneh Torah represents the rabbinic doctrine, while *Al-Muhalla* represents the phenomenological doctrine. Each of them relies on the oral heritage represented in the Mishnah and Talmud, on the Jewish side, and the Sunnahs of Prophet Muhammad, on the Islamic side. *Al-Muhalla* is one of the four books of Ibn Hazm in which his jurisprudence and his doctrine are written. It appears from its introduction, which did not exceed a page, in which Ibn Hazm mentioned the reasons for writing the book, that he agreed with Maimonides in the reason for writing his book Mishnah Torah. Ibn Hazm wanted it to be easy for the student and the novice. Therefore, he confined himself to the rules of proofs without elaborating, adhering to the apparent doctrine, mentioning the Sunnah in all its rulings, and clarifying the weak narrations and excluded them. On the other hand, Maimonides did not adhere to the rabbinic doctrine and avoided the criticism and attacks on the rabbinic doctrine, as mentioned.

For the second time, we wonder, and in another way, Was the similarity between the Mishneh Torah and *Al-Muhalla* limited to classification and division only, or is there a similarity between them in content? In order to answer this question, we make a comparison between the monotheism and repentance in *Sefer HaMadá* and the content in the issues of the monotheism and repentance in *Al-Muhalla*.

### The Monetheism in Mishneh Torah and *Al-Muhalla*

Comparing the monotheism in the first book of Mishneh Torah; *Sefer HaMadá*, with the issues of monotheism that Ibn Hazm began in his book *Al-Muhalla* reveals the following:

1. Maimonides agreed with Ibn Hazm that knowledge is the basis of monotheism; so, Maimonides called the first book of Mishnah Torah; *Sefer HaMadá* because it includes monotheism. Given that Maimonides and Ibn Hazm are considered philosophers and jurists; Maimonides used the twenty-five premises needed to prove the existence and oneness of God and that He is not a body, which was demonstrated by Aristotle (Kedourie 1979: 213). Maimonides mentioned these twenty-five introductions in his book *Dalalat Al-Häirin* (Maimon 1931: 165–167). These rules pave the way to prove the existence of a deity that is necessary. It is impossible for Him to have His existence from another. Rather, He is the reason and cause for the existence of another. He is the Creator. Also, these rules

pave the way to prove the oneness of God, God Almighty is One, i.e. One in His kind, unparalleled. As for Ibn Hazm, he used what logicians stated as evidence for monotheism, and sufficed with mentioning the rational evidence that God Almighty is the God of everything, the Creator of everything, He is One, and there is nothing like Him (Ibn Hazm 2006: 46–47). Maimonides mentioned the evidence of logicians in proving monotheism (Maimon 1931: 75), disagreeing with Ibn Hazm in his use of paragraphs from *Miqra* to support the presence of this in the text. Therefore, he had to resort to the interpretation of *Miqra* passages that attribute to God a hand, a foot, and a finger, for example Exodus (24:10, 31:18, 9:3). Ibn Hazm adopted the apparent meaning of the Quran adhering to text not interpretation and said: “God Almighty has glory, honor, hands, face, and eyes. All of that is a right that cannot be returned nor from His knowledge and strength except God Almighty” (Ibn Hazm 2006: 60).

2. Maimonides agreed with Ibn Hazm in referring to angels. Maimonides dealt with them in the context of dividing existents into three categories, that angels are of the third category, and that they are form without matter. They are not bodies but rather forms that differ from one angel to another (Maimon 1957: 2:3). Therefore, Maimonides was forced to interpret what prophets said about the angels, that they have wings. He had to explain how angels differed from each other, if they did not have bodies (Maimon 1957: 2:4-8). Ibn Hazm sufficed with what was mentioned in the text of the Qur’an about angels, that they are creatures of honor, and that all of them are God’s messengers. They were all created from His light. Angels are the best of God’s creation. They count the words and deeds of man (Ibn Hazm 2006: 51).
3. Maimonides and Ibn Hazm agreed in proving the knowledge of God, and that His knowledge encompassed everything. Maimonides emphasized that the knowledge of God is different from the knowledge of humans. His knowledge is not outside of Himself (Maimon 1957: 2:9-10). As for Ibn Hazm, he sufficed with what came in the text of the Qur’an about the knowledge of God that encompasses everything (Ibn Hazm 2006: 59).
4. Maimonides and Ibn Hazm agreed that the self is called the soul. Maimonides advised a distinction between the two names (Maimon 1957: 4:8), but Ibn Hazm said that the self and the soul are two names of the same thing (Ibn Hazm 2006: 47). Maimonides confirmed that the self of every human being is his image that God gave to him, and the extra knowledge that exists in the self of every human being is the image of the perfect human being with his knowledge. This image of the self is not composed of elements separable from it. It is from the Lord. Therefore, when the matter that consists of the elements gets separated, the breath perishes, this image does not perish, but remains forever (Maimon 1957: 6:1-2). Maimonides’ definition of the self agrees with the definition of philosophers, while Ibn Hazm affirmed that the self is created; made and composite (Ibn Hazm 2006: 47).
5. Maimonides and Ibn Hazm agreed that the Lord should be sanctified, and His name should not be desecrated. Maimonides explained that sanctification is non-transgressing one of the obligations stipulated in the Torah except in specific cases. He interpreted sanctification literally by not erasing any of the names of the Lord (Maimon 1957: 6:1-2). Ibn Hazm interpreted the sanctification of the Lord by saying that it is not permissible for anyone to name God other than what He called himself, nor to describe Him other than what He told about Himself. He has ninety-nine names, mentioned in Qur’an and Sunnah (Ibn Hazm 2006: 58).

A comparison of the content of the jurisprudential monotheism issue in *Sefer HaMadá* and the issues of monotheism according to Ibn Hazm shows that Ibn Hazm was more committed to his jurisprudential school, which is the apparent doctrine. Therefore, he was satisfied with the evidence from the Qur’an and the honorable hadith, not based on the rational evidence that

theologians or philosophers resorted to in proving the existence of God or monotheism, despite his being a philosopher, and despite the fact that the apparent doctrine developed from the thought of the Mu'tazila. As for Ibn Hazm, he expanded on the evidence for monotheism. Ibn Hazm and Maimonides adhered to the goal that each of them mentioned in the introduction to his book. Ibn Hazm did not elaborate, and was limited to the basics of proofs, but Maimonides included in his book the most important tradition in the rabbinic heritage from his point of view. He wanted to be a transcriber of Jewish law because he is a philosopher. Thus, he added to the rabbinic heritage the philosophical topics that Tannaim ignored, such as the issues of divinity, monotheism, and prophecy. So, the size of the space allocated by each of Ibn Hazm and Maimonides for the issue they agreed on its content was very brief in *Al-Muhalla*, and lengthy in *Mishneh Torah*. Maimonides prolongation is due to the fact that he included all that was mentioned in minor tractates, the foundations of which were laid down by Tannaim then crystallized by the geonim. Maimonides also included, in his book, feasts not mentioned in the Mishnah, such as *Hanukkah* and *Purim*.

This comparison reveals that Maimonides did not agree with Islamic jurisprudence books only in classification and division, but also in the content of the topics of the age, foremost of which is the debate between philosophers and jurists about the eternity of the world or its occurrence, divinity, the soul, resurrection, and other philosophical issues. Maimonides and Ibn Hazm agreed as jurisprudence, despite the fact that they were philosophers, in an attempt to bring these philosophical issues closer together.

### **The Repentance in *Mishneh Torah* and *Al-Muhalla***

Maimonides and Ibn Hazm dealt with repentance in their books. Maimonides devoted ten chapters to it in his *Sefer HaMadá* and included everything found in the previous rabbinic heritage about repentance, whether for the rabbinic philosophers such as Saadia Al-Fayyumi (882-942 CE) or the rabbinic mystics such as Judah Halevi (1075-1141 CE), and those who were influenced by Mu'tazilites and the Muslim Sufis. Comparing the repentance in *Sefer HaMadá*, for Maimonides and in Ibn Hazm's book *Al-Muhalla* reveals the following:

1. Maimonides agreed with Ibn Hazm that repentance meant regret, quitting, and determination not to return to sin and seek forgiveness (Maimon 1957: 2:2; Ibn Hazm 2006: 66). He defined repentance, and mentioned the ways of repentance, which are weeping to the Lord, supplication to Him, almsgiving, a person turning away from the sins for which he intends to repent, and to change his deeds for the better (Maimon 1957: 2:4). Maimonides explained that the repentance that the Lord will forgive is repentance for the sins that a person has committed against God, i.e. eating food that God has forbidden or having a forbidden marriage but the sins that one commits against his fellowman, such as causing him harm or insulting him, are not forgiven except by returning right to that fellowman (Maimon 1957: 2:9). Ibn Hazm agreed with him on that, as he emphasized that repentance from wrongdoing people in their honor and their money can only be forgiven by returning their money to them (Ibn Hazm 2006: 66).
2. Maimonides agreed with Ibn Hazm that a person's good and bad deeds are weighed. Ibn Hazm illustrated that a person must do good in order to outweigh the scale of good deeds. The good deeds outweigh evils by weighing, and repentance cancels out bad deeds (Ibn Hazm 2006: 66). Maimonides said: "Every human being has good and bad deeds. The righteous is the one whose good deeds are more than his bad ones, and the evil one is the one whose sins are more than his good deeds" (Maimon 1957: 2:4).

To conclude, this article makes it clear that there was a vast difference between the Mishnah and *Mishneh Torah* that Maimonides completed the severe deficiency in the Mishnah legislations. The provisions presented in agreement with what was stated in *Al-Muhalla* on the authority of Ibn Hazm shows that Maimonides was familiar with the books of Islamic jurisprudence and traced

them on the content of jurisprudential issues in each of the topics and the way they were presented. He was not satisfied with what was mentioned in the books of the rabbinic heritage, but he examined what is available in his time to be familiar with the changes of his age on all the jurisprudential issues mentioned in the Islamic jurisprudence literature, whether those related to the developments of the age or philosophical problems such as the issue of divinity and monotheism in which Maimonides agreed with Ibn Hazm.

Maimonides developed the Mishnah with his book *Mishneh Torah*. He used the books of the rabbinic heritage; the Babylonian and Jerusalem Talmud, *Tosefta*, *Mekhilta*, *Sifre*, *Sifra*, answers of the Geonim, and the writings of Saadia Al-Fayyumi and Judah Halevi, to complete the legislations that didn't mention in Mishnah. He reclassified these legislations objectively according to the method of Islamic and local jurisprudence books in particular.

The laws contained in *Mishneh Torah* make Maimonides not only a rabbinic jurist but an innovator who tried to reconcile reason, Islamic culture, and the developments of the age with the Jewish religious heritage, which was influenced by Islamic thought. This influence appeared in Jewish Rabbis who lived in Islamic countries and Maimonides was one of them. He developed, with the influence of Islamic thought and culture, a part of Jewish religious heritage, which is represented in the book *Mishneh Torah*.

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