

סגולת

# principles

ESSAYS ON

## HALAKHA, MAHSHABA, AND HISTORY

BY SELECTED TEACHERS AND MEMBERS



THE  
HABURA

The Journal of The Habura  
Winter 2023 | Edition 6

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# INTRODUCTION TO OUR 6TH EDITION

BY SENIOR RABBI JOSEPH DWECK

As ever, our journal brings writings from our illustrious Ḥakhamim, our teachers and our students, on an array of important topics. In this issue, the place of miṣvot in our lives is looked at from several perspectives. How we enact them, how we teach them, and what happens when our lives are not properly filled with them. This issue deals with many aspects of how Torah applies to our everyday lives, including the Hebrew language and how important it is to know Hebrew in order to be a fully conscious Jew.

It is a true inspiration to see how The Ḥabura has flourished over the last years and how much of an interest and thirst there is to study Torah in a rigorous, traditionally based framework that does not shy away from engaging with the world and all of its complexities.

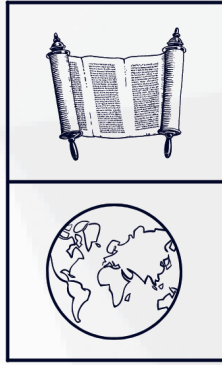
I am grateful to Sina Kahen for his tireless work in ensuring that all aspects of The Ḥabura is running with care and efficiency. And I am deeply moved by the many members—teachers and students—who do so much in so many ways to enliven our global Bet Midrash.

We are particularly thankful to Dangoor Education and The Montefiore Endowment for their continued, generous funding of The Ḥabura. We hope that they receive much naḥat from all of its work.

Finally, we thank *HaQadosh Barukh Hu* with our whole hearts for affording us our place in the study of his Torah. May it be a light for us and all of *Am Yisrael*, amen.



**Rabbi Joseph Dweck**  
Rosh Bet Midrash  
Senior Rabbi, S&P Sephardi Community



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# HOW IS TALMUD STUDIED IN TRADITIONAL SEPHARADI COMMUNITIES?\*

ḤAKHAM JOSÉ FAUR  
(1934-2020)

Ḥakham Dr. José Faur's journey from Argentina to Eretz Yisrael charts a remarkable path of scholarship and leadership.

Ḥakham Faur boasted an esteemed array of rabbinic ordinations. In 1963, he received semikha by Rabbi Souleiman Hugi Aboudi, the head of the Rabbinic Court in Jerusalem, and was further endorsed by Rabbi Obadia Hedaya, Rabbi Ya'aqob Ades, and Rabbi Ezra Atiyeh. In 1966, he received Dayyanut for Eben ha'Ezer from Rabbi Matloub Abadi. By 1968, he had become a community rabbi for the Asociación Comunidad Israelita de Flores. Later the same year, he achieved another Dayyanut, this time in Hoshen Mishpat, once again under the tutelage of Rabbi Souleiman Hugi Aboudi of Jerusalem's Rabbinic Court.

His academic aspirations took him to Harvard University, University of Barcelona, Jewish Theological Seminary, Bar Ilan University, and Netanya Law School.

He also penned a vast array of essays and books, including "Homo Mysticus" (an analysis of pre-Kabbalah rabbinic mysticism) and "The Horizontal Society" (an analysis of the People of Israel's God, Books, and Covenant).

Ḥakham Faur's passing in 2020 was a profound moment for world Jewry. His life and works beautifully present a commitment to communicating Jewish tradition using the latest intellectual advancements of his time - a key feature of our greatest Ḥakhamim.

To learn more from Ḥakham Faur, please visit [www.yafebeito.com](http://www.yafebeito.com) or learn with his son (Rabbi Abraham Faur) via his YouTube page 'Torat Andalus'.

*The following is an English translation of his seminal essay titled "Hora'at Ha-Talmud Ba-Massoret Ha-Hinukhit Ha-Sefardit," originally found in Sheviley Hahinuch 35 (1975), pp. 177-188.*

## 1. The Place of Talmud Teaching in the Educational Process

The Sephardic educational process is composed of three stages. The first stage is teaching Scripture, the second is teaching Jewish Law, and the last is teaching Talmud. This order is based on the Sages<sup>1</sup> who directed us to divide our study schedule into three parts; one third "*Miqra*", one third "*Mishna*", and one third "*Talmud*".

The first stage is the foundation of Jewish education and the source of the values which unify the entire House of Israel. The father's obligation is to teach his son Scripture, not Mishna or Talmud. Some state that "Scripture" includes only the Pentateuch<sup>2</sup>, whereas others, including Maimonides, state that "Scripture" includes the entire Written Tora: [The father] must pay for his education until he is capable of reciting the entire Written Tora.<sup>3</sup> In addition to Scripture, at this stage the entire prayer service was taught, along with the relevant laws and customs. Of course not exactly the same prayer service nor the same laws and customs were taught in all communities or in all eras. The content of this vocation varied with the time and place. Among the prayer collections that were studied as part of this vocation, R. Se'adya Gaon's is worthy of mention during the

1 At Qidushin 30a.

Although the conclusion of the Talmud there is that "this applies on a daily basis," i.e. it is each day and not just the overall learning process that should be divided into thirds, this was said outside of a school-based system. Cf. Mishne Tora, Hilkhhot Talmud Tora, 1:11-12. In a school, however, the overall educational programme should be divided as stated. Cf. Pirque Abot 5:21, Qohelet Raba at the end of Section 4, and the excerpt from Tractate Soferim quoted in note 9 below. This has been analyzed in detail by R. Yishmael Kohen, in his book Zera Emet, Section II (Livorno 1796), §107 (cf. note 13 below).

2 See the excerpt from R. Yosef, Head of the Order, below.

3 Mishne Tora, Hilkhhot Talmud Tora 1:7. Cf. *ibid.* 1:11.



medieval period, as are those of R. Yehuda Shemu'el Ashkenazi in the modern period<sup>4</sup>.

The "Mishna" referred to in the second stage is not the Mishna compiled by R. Yehuda HaNasi, but rather refers to Jewish Law. R. Se'adya Gaon translated "Mishna" with the Arabic term "fiqh<sup>5</sup> ", that is to say, apodeictic law, and the same understanding was held by Maimonides<sup>6</sup>. The different Halakhic works by the Ge'onim such as Halakhot Qeṭanot, Halakhot Qeṭuṭot, Halakhot Pesuqot, and Halakhot Gedolot were authored to teach this vocation. Foremost among these works we may mention The Halakhot by R. Yiṣḥaq al-Fasi and Mishne Tora in the middle ages, and Shulḥan Arukh by Maran, Yosef Qaro in the post-expulsion era.<sup>7</sup>

The "Talmud" of the third stage also includes the legal and religious modes of thought of the Sages. Only singular individuals reached this stage.

Graduates of the first stage are referred to as "Amé HaAreṣ" [lit. 'people of the land], graduates of the second stage were called "Talmidé Ḥakhamim" [students of sages\*<sup>1</sup>], and those who completed the final stage were called "Ḥakhamim" [sages]. Thus R. Yosef the Head of the Order, a contemporary of Maimonides, describes those who completed the syllabus at each stage:<sup>8</sup>

*An Am HaAreṣ is someone who has studied the Tora and the Sidur (= the first stage). The best Sidur is surely that of R. Se'adya al-Faiyumi, may his memory be a blessing... behold! The Tora refers to the written Tora, and the Sidur [refers to] the Oral Tora. The Talmid Ḥakhamim adds to the Tora and to the Sidur the rest of Scripture, i.e. the works of the Prophets and the Hagiographa, and the laws. I see The Halakhot of R. Yiṣḥaq al-Fasi (HaRif) as being the best of the collections of Halakhot. The Ḥakham adds to Scripture, the laws and the Sidur three more things: the Mishna, the Talmud and the commentary. The "commentary" to which I allude is that of Rabbenu Ḥanan'el ben Hushi'el, may his memory be a blessing, to the orders of Mo'ed, Nashim and Neziqin, the commentary of Rabbenu Barukh ben Yiṣḥaq, may his memory be a blessing, to Qadashim and the commentary of R. Yiṣḥaq ben Malki Ṣedeq to Zeraim and Tahorot.*

The Sages cautioned that one's studies must be conducted in order, "not that a person skim over Scripture and Mishna to reach Talmud"<sup>9</sup>. The Ge'onim and the Sephardic Rabbis did not look kindly on those who sought to enter Talmud study before completing the first two stages. R. Shemu'el HaNagid mocked such Talmudists<sup>10</sup>:<sup>\*2</sup>

כר אחי בלכתנו שנינו ושמענו חמור נוער וזנחת ושחת: מי אשר שת בית אלהים ואמר: אין חמור ומריא בבית אל, ואמרת: המירותם תעודה ובאנו זועמים אל בית אלהים והנה רב ותלמידים מנידים בפיהם גדפו הלל ושמאי והרב יאריד להם טעמים וישבתו ופני זועפים מן	אלי בית התפלה, יום ערבה בני בקר והם גועים, קרבה כמו רפת - והיא חטאת וחובה אבל קורים במסכת ובבא ותורה - ואני אנה אני בא? - ומי יתן ונטעה בנתיבה! לראשיהם כערער בערבה והכו על לחי רבי עקיבא ויטרף מלשונם אות ותבה אשר אראה, ונפשי בי עצבה...
--	---

*Remember, my friend, the day we went  
On last day Sukkot, unto God's tent  
The donkey's bray then rent the wind  
By cattle's crying<sup>11</sup> underpinned  
I asked a stranger "By what withal  
Profaned as barn is study hall?"  
Replied he me "This isn't cattle  
It's Tractate reading, not just prattle!"  
I told him "You've confused Tora and vocation  
But where's left for me to set up location?!"  
We arrived, both fuming, at the house of prayer  
If only we hadn't made it there!  
We saw a rabbi with his students  
Waving their heads in fake jurisprudence  
Like thistles growing in the desert  
With their mouths they maligned Talmudic sages  
Hillel and Shammai- they slapped their faces!  
The teacher taught details in preponderance  
Eliciting monosyllabic respondence  
I sat down, wearied by what I saw, and my heart was  
despondent.*

Similarly in the academy of Maimonides they made a point of not studying the Talmud prior to the *Mishne Tora* (= the second stage)<sup>12</sup>.

4 Bet Obed [for weekdays], Livorno 1843; Bet Menuḥa [for Shabbat], Livorno 1843; Bet Mo'ed [Sukkot, Shemini Aṣeret and Simḥat Tora], Livorno 1849; Bet HaZikaron [Rosh HaShana], Livorno 1850; Bet HaKaporet [Yom Kippur], Livorno 1855

5 Targum Sefer Mishle UBI'uro [Yosef Dirinberg], Paris, 1894, p.124, in commentary to Proverbs 22:6. Similarly in Sidur R. Se'adya Gaon, Jerusalem, 1963, p. 358: "man alfiqh iani alm[ishna]"; meaning: "from the halakha, that is to say, the Mishna" (the printed translation of "man alfiqh": "from the Talmud", is erroneous).

6 This may be inferred from Hilkhot Talmud Tora 1:11; see below.

7 In the introduction to Shulḥan Arukh R. Qaro expressed the hope that "young school children" would learn this book, and that was indeed the practice in Sephardic schools.

8 Simḥa Asaf, "Perush LeSidur Rab Se'adya", Qiryat Sefer, 18 (1941), p.65; ibid p. 63 in the Arabic original.

9 Soferim 15. However it should be noted that there are different textual variants of this piece. Nonetheless, see Hagahot Maimoniot to Mishne Tora, Hilkhot Talmud Tora, at chapter 1 note 9.

10 Diwan by Shemu'el HaNagid [edition by Dr. Dov Yarden], Jerusalem, 1966, p.229.

\*2 What follows is a rough translation intended to preserve some of the rhyme, meter and feeling of the original poem.

Rabbi Abe Faur (the son of the author) points out the significance of the poem's setting, on the last day of Sukkot- there is a custom in some communities to learn through the night. If this is a reference to that custom, it appears to be the earliest by a margin of some two hundred years.

11 Maimonides too described students such as these with similar language, see A.S. Helkin, "Sanegoria Al Sefer Mishne Tora", Tarbis, 25.4 (1956), p.417: "Those similar to cattle".

12 See "Sanegoria Al Sefer Mishne Tora", p.417 and onwards.

This study process was not accepted amongst the Rabbis of France and Germany. Regarding study of Scripture and Mishna, Rabbenu Tam wrote:

*For us, who are engaged in the study of the Babylonian Talmud, that is sufficient, for mixed within it are Scripture, Mishna and Talmud*<sup>13</sup>.

R. Shelomo Yiṣḥaqi (Rashi) interpreted the warning of the Sages, "Restrain your children from logic", as meaning: "Do not overly accustom them to studying Scripture, because it allures"<sup>14</sup>; it seems that he intended to say that Scripture should not be studied alone, but rather through the lens of the exegesis of the Sages.<sup>15</sup>

The Sages of France were not even aware of the study process in Spain and the East. One of the criticisms against the *Mishne Tora* was that through it the study of Talmud would be diminished. In light of the study process practiced in Spain and the East, however, this criticism falls through. Indeed, Maimonides had already clarified that his composition, *Mishne Tora*, was a book for study of Jewish Law at the second stage of studies:

*I have therefore entitled this work Mishne Tora*<sup>\*3</sup>, *because a person may first read Scripture (= the first stage), and after that (= the second stage) read this and know thereby the entirety of the Oral Tora*<sup>16</sup>.

This criticism was raised by R. Pineḥas HaDayan of France, who was a stranger to the world of Eastern Jewry, with the following words:

*It would be fitting for your honour to issue a clarification to the world that they should not leave off from their engagement in the study of Gemara*<sup>17</sup>.

What follows is Maimonides' reply:

*Concerning this whole matter, it is fitting for me to rebuke you and to inform you that I have already perceived your heart's intentions, even though you did not express them but only alluded to them. First of all, be aware that I never said, God forbid, "Do not engage in the study of Talmud (= the third stage) or The Halakhot of R. Yiṣḥaq al-Fasi or similar compositions (= the second stage)"*<sup>18</sup>.

This criticism was also raised by R. Me'ir Abulafia- one of the greatest opponents of Maimonides in Spain. However, as R. Sheshat HaNasi of Castile stressed to the scholars of Lunel, the argument here is somewhat dubious, since the Talmud had never formed part of the study curriculum in Castile. R. Sheshat HaNasi wrote the following words concerning R. Me'ir Abulafia<sup>19</sup>:

*Behold his fear has come true, for prior to the arrival of the Mishne Tora in the region of Castile, the ability to read The Halakhot, and all the more so the Talmud, was beyond comprehension in the eyes of the residents, "for wisdom is lofty to a fool". Therefore that judge could rule single-handedly, in line with his own will, and no one could argue with him because they would be unaware which way the law really inclined. They were thus all dependent on him. But when they saw the fourteen volumes of Mishna*<sup>\*4</sup> *and all those who knew Hebrew contemplated them and started to gaze on the beauty of the list of the commandments*<sup>\*5</sup> *and of that which is written regarding ethics and sciences in Sefer HaMadaq*<sup>\*6</sup>, *their eyes were opened and they stood now independently and they each had a copy written for themselves. They began to heap praise on them and their souls were bound with them in love. They gathered together, elders with youths, all who were literate, to teach their regulations and to contemplate their legislation. So behold, today those who understand their content have become a proliferation and when they hear of the claims between the litigants and they hear the judge's ruling they subject it to investigation. And thus "unto God let the case of them both come for adjudication".*

*So when the original judges saw that this boastful fool who speaks pompously is now on their level, accordingly their jealousy heightened and their fury flared up inside them. They sought to turn away the hearts of those who cling to the law of Moshe, the Western Light who sheds on all Israel his glow, so that they veer from his straight road. Now they further err, speaking among the uneducated along the lines of what this fool wrote to them in his work, in addition to many other words on this matter so that they heed him, and they won't defy his word.*

R. Sheshat HaNasi's testimony that in Castile Talmud was not customarily studied is corroborated elsewhere, by an admirer of his opponent<sup>20</sup>:  
*After him came R. Me'ir HaLevi... He was a great scholar of*

13 Aboda Zara 19b, s.v. Yeshalesh. R. Moshe Isserles ruled likewise at Yore De'ah 246:4. Presumably Rabbenu Tam's position is applicable only to a Talmid Ḥakham; see Zera' Emet, Section II, f. 117b: "It is obvious that there can be no support for those who stoop to the aforementioned detrimental custom, beginning to teach Talmud to young boys, justifying themselves by claiming that they are relying on the great authority, Rabbenu Tam... for there he is not referring to the study programme through which students are to be led, rather he speaks of any person who has already become a Talmid Ḥakham". R. Yonatan HaKohen, however, derived from his words: "there he is not referring..." that Zera' Emet is only disputing the proof brought by Rabbenu Tam, not on the conclusion to be drawn from it. It is worth pointing out that R. Moshe Isserles also understood Rabbenu Tam's words as not being limited to only a Talmid Ḥakham. That is why R. Isserles found it necessary to rule in accordance with Rabbenu Tam, even though R. Qaro had already ruled there (Yore De'ah 256:4) that the obligation to divide study time into three only applies "at the start of a person's studies".

14 Berakhot 28b, s.v. MeHaHigayon.

15 For a defense of R. Yiṣḥaqi's view here see Profait Duran, *Ma'aseh Efod*, Vienna, 1865, p.5.

\*3 Literally, 'Summary of Tora'.

16 Introduction to *Mishne Tora*.

17 Qobeṣ Teshubot HaRaMB"am, Leipzig, 1859, Section I, p.25, 2-3.

18 Continuation *ibid*.

19 Cited by A. Marx, "Texts by and about Maimonides," *JQR*, 25.4 (1935), p. 427.

\*4 I.e. the *Mishne Tora*.

\*5 In the prologue to the *Mishne Tora*.

\*6 The Book of Knowledge, the first of the fourteen volumes of *Mishne Tora*.

20 R. Menahem ben Zerah, *Ṣeda LaDerekh*, Warsaw, 1880, f. 3b.

*Gemara and he composed commentaries on most of the Gemara of wide breadth and span, on halakhic rulings, difficulties and their resolutions. He wrote both a long edition and a short one. In his time, and also preceding it, only The Halakhot of R. al-Fasi were studied.*

It is worth pointing out that in Spain, even those who aspired to delve into the inner reaches of Talmudic literature continued to perceive Scripture as the foundation. This is implied in a responsum of R. Yosef ibn Megas, one of the greatest Spanish Talmudists<sup>21</sup> :

*The Talmud is the elucidation and meaning of the Tora not the Tora itself. Observe how, unlike the actual Tora, the Talmud doesn't require traced lines. It is therefore apparent that its sanctity does not reach that of the Tora itself. Not only that, it does not even reach the sanctity of the rest of the Sacred Scriptures. Since we observe that in addition to its not requiring traced lines, it does not defile the hands\*<sup>7</sup>, one may not even place it on top of Hagiographa, certainly not on top of Prophetic works and all the more so not on top of Tora.*

The division of studies into the aforementioned three stages was maintained in the Sephardic educational tradition throughout the generations until the modern era. This division was also the basis of the further education of community members. The classes which took place in the community, and around which those who yearned for Tora centered themselves, reflected this division. Those who had graduated a particular stage in the school would continue their studies according to that level. They could expand or deepen their understanding, but not participate in courses which studied the vocation of a different stage. Someone who had graduated at the first stage could attain greater fluency and precision or he could engage with new commentators but he could not enter the courses attended by graduates of the second stage.

## 2. The Nature of Talmudic Literature

In the eyes of the Ge'onim and the medieval Sephardic rabbis, the Talmud is not a literary genre containing a framework of values and internal indices which enable its understanding without connexion to sources that are external to it. This is why the direct chain of educational transmission regarding the proper understanding of Talmud from the academies of the Amora'im to the Ge'onim through to [contemporary] rabbis is so essential. Without this tradition the student of Talmudic literature

will be incapable of orientating himself. Arabic speaking Jews referred to this methodology, study via educational transmission, by the term "talqin". The precise definition of "talqin" is given by R. Se'adya Gaon<sup>22</sup> :

*"Talqin" is when a person learns the basics of forms of knowledge, and their tenets, from someone else who preceded them.*

It is very difficult to transmit "talqin" in written form. The teacher must be especially cognisant as to "the direction the [student's] heart inclines" –that is to say, his predispositions and his value system- in order to know what to explain from the wording of the Talmud and how to explain it. This is why the Ge'onim could not always resolve in written form the questions which were posed to them. Thus we hear from R. Sar Shalom Gaon<sup>23</sup> :

*And if God had willed it that you be in our presence it would have been possible to explain them very well and to clarify the difference between them very well, as is fitting for "a matter spoken in different phrases". This is because when a student sits in front of his master and debates in halakha, his master can see how his heart inclines; what is hidden from it; what is clear to it and about what it remains obstinate –then he can enlighten his eyes and direct him in halakha.*

The explanations and deliberations of those who aren't familiar with "talqin", i.e. those without access to the Ge'onic tradition of explanation, will not help them understand Talmud. Hence the sharp criticism of those who sought to understand Talmud based on their own personal judgment. This is what R. Sherira Gaon wrote of those who garner their knowledge from books but not their writers<sup>24</sup> :

*They appeal to their books, but they don't understand the mechanisms of the Lord and his handiwork, and they don't achieve even a fraction of what the least of the Ge'onim's students' students has achieved.*

Of such students R. Yona ibn Janaḥ wrote<sup>25</sup> :

*They have been lax with themselves regarding this since that which they study of the Talmud they study in a mistaken way, that which they read is distorted, but they do not realise this because they have lost the chain of transmission and they did not obtain their learning from teachers.*

R. Yosef ibn Megas proclaimed his sharp opposition

<sup>21</sup> Responsa of R. Yosef ibn Megas, no. 92.

<sup>\*7</sup> When transcribing Sacred Scriptures, lines must be traced above the letters. By Rabbinic decree, Sacred Scriptures defile the hands when touched.

<sup>22</sup> Introduction to his commentary to Proverbs (detailed above in note 5), p. 7.

<sup>23</sup> Teshubot Ge'onim Qadmonim, Berlin, 1848, §46.

<sup>24</sup> Sha'are Teshuba §187.

<sup>25</sup> Sefer HaRiqma, Frankfurt, 1856, p. V.

against those who relied on “inference”, i.e. their personal opinions, in explaining Talmud and in ruling Jewish law<sup>26</sup> :

*If those teachers had been trained in Talmud then they would understand... but someone who doesn't know the ways of Talmud and doesn't understand its intents, -how can he enter the realm of Jewish rulings and rely on his own inferences from the Talmud, just whatever he happens to think. Really, judges like these cannot properly be referred to as judges, only as arbitrators. We may truthfully say about them: "Many are the slain that she has cast down." Of their like and ilk it is fittingly stated: "If you've studied once you haven't reviewed. If you've reviewed your studies you haven't reviewed the revision. And if you've reviewed even that, then it must be that no sage explained to you [that which you studied in the first place]." Had they had sages to explain to them the correct understanding they could never have made such a mistake and would never have explicated the Talmud as meaning something that it did not intend. However, due to their apathy, in that they didn't attend the great sages of the generation, they fell into this trap. We have already instructed you regarding the preceding legal matter and have informed you of the line that the law takes on this. We have informed you how it fits into the text and how it is logical, and it is fitting for you to fasten this understanding even with nails. All that we have taught you here is that which we received from our teacher and master the great Rabbi of blessed memory, such as we learned this legal matter in his presence in accordance with its explanations and meanings and also how the law is unique to this case. This, despite the fact that it is really an obvious matter to someone who is used to the ways of Talmudic inference, even without resorting to reliance on a teacher. Despite all of this we have seen fit to inform you that which we received from our great Rabbi of blessed memory so that it would be supported on two mounts. He who wants to accept may accept and he who refuses to accept may stand his ground in his own understanding, as it is written "let the listener accept and the stubborn refuse." About them one may say "leave him, for he has no desire to learn." May He who contains all space find us worthy to teach in accordance with law and the correct path. May He open our hearts to His teaching and to set out the law in its clarity and reality, and may He save us from the punishment of judgment. Amen.*

It should be pointed out that although Maimonides did argue with Ge'onim in relation to the final law, he always explained the Talmud itself as “the Ge'onim explained it to us in all of their works which they composed after the Talmud.”<sup>27</sup>

It is clear that in this methodology there is no room for making use of fine distinctions or “pilpul” in explaining the Talmud, as the “pilpul”<sup>28</sup> methodology sees it as possible to elucidate the Talmud without recourse to “talqin”. This is indicated by the words of R. Yosef ibn Megas<sup>29</sup>:

*That which forced me to withdraw from that reasoning is that I realised that where the Talmud never distinguished between two cases we cannot do so either. Rather, we must take it unreservedly, just as it is presented unqualified in the Talmud, for if this distinction was true and fit to be made then some Tannaic or Amoraic sage or other great rabbi should have made, or alluded to, that distinction.*

The early Sephardic rabbis didn't see any relationship between “Talmudic logic” and halakhic decision making. Maimonides established as a rule: “We don't leave a clear Talmudic conclusion to rule based off of the give and take of the Talmud”<sup>30</sup>. Using other words, he said: “It doesn't make sense for a person to abandon practical halakha in pursuit of difficulties and their resolutions.”<sup>31</sup> In the eyes of the Tosafists, however, the Talmudic give and take is key. These two differing approaches to Talmudic elucidation led to different conclusions when ruling halakha.

From the above it is clear that in Maimonides' opinion the main goal of engagement in Talmud is the halakhic ruling- not knowledge of the give and take; the arguments, the questions and the refutations<sup>32</sup>. However only one who has become expert in all aspects of the third stage is qualified to rule halakha from the Talmud. The difference between those who graduate this ultimate stage in the educational system and those who complete the second stage is enormous- maybe even bigger than that between those who only complete the first stage and those who complete the second. Those who complete the second stage are not qualified to rule halakha based on the Talmud itself, but rather are forced

26 Responsa of R. Yosef ibn Megas, §195.

27 Introduction to Mishne Tora.

28 Hanokh Yalin, “Pillel, Pilpel in Hebrew and Aramaic”, Tarbis, 6 (1935), pp. 223-229, delved into the meanings of this term and showed that it has no relevance to “sharpness.” In his opinion “pilpul” is a verb meaning “to overturn” or the like. It seems to me, however, that “pilpul” refers to “clarification”, as in “he should not cleanse (yefaleh) his garments” (Shabbat 1:3); similarly in the Midrash Tanhuma (Constantinople, photo-offset, Maqor publications, Jerusalem 1971), p. 36 §1: “The king had to cleanse (lefalpel) through the dirt and the shards to extract the pearl from their midst.” In the Targum to Job 11:12 (cited in Meturgeman under entry “pilpel”) “ve'ish nabub yilabel”: “a person who is mefalpel will be precise”. So “pilpul” refers to the clarification of a matter. This is also what R. Sherira Gaon wrote, Iggeret Sherira Gaon [R. Binyamin Menashe Levine], Haifa, appendix, p. VII: “... similarly a master of “pilpul” will be able to purify any teaching that he comes across and clarify its reasoning.” With God's help I hope to thoroughly deal with this term elsewhere.

29 Brought in Shi'at Mequbeset, Baba Me'ija, to f. 104a.

30 Teshubot HaRambam [Yehoshua Blau], Jerusalem, 1958, §345, p. 618; compare ibid. §252, p. 421.

31 Cited by Alexander Marx, “The correspondence between the Rabbis of Southern France and Maimonides,” HUCA, 3 (1926) p. 50. Compare what R. Abraham the son of Maimonides wrote in Ma'ase Nisim, Paris, 1863, §2, 12, 32, 43.

32 See “Sanegoria Al Sefer Mishne Tora”, p. 417.

to rule in line with works authored by scholars who did complete that last stage. The expertise of the second stage is apodeictic halakha, a subject which anyone can learn. Thus Maimonides wrote<sup>33</sup>:

*I say that only someone whose belly has been filled with bread and meat is fitting to stroll in the orchard. Bread and meat- this is knowing the prohibited and permitted, or other similar things with regards to all the commandments. Even though these matters are referred to by the sages as a minor thing, as the sages said that 'the works of the chariot' are referred to as significant whereas 'the difficulties of Abaye and Raba' are referred to as minor, nonetheless it is the latter that a person should prioritise since they settle a person's mind before he proceeds further. Furthermore, these are the greatest benefit which the Holy One has dispensed to the inhabitants of this world in order to allow them to inherit the life of the coming world, and it is possible for everyone to know them, both young and old, men and women, understanding and undiscerning.*

*However only individuals from the prized of Israel's nation, whose self had yearned for Tora and so driven them to engage by night as by day in the sea of the Talmud, and whom God has endowed with expansive understanding and perspicacious personality, attained the third stage.*

This characterises these exceptional individuals, as we hear from Maimonides. One who rules directly from the Talmud must know<sup>34</sup>:

*The Talmud itself- both Babylonian and Jerusalemite, the Safra and the Safrei, and the Tosefta. These things require an open mind, a perspicacious personality and much time. After that he will know through them the correct path as regards things which are prohibited or permitted and he will understand the nature of the rest of the rules of the Tora.*

From the above it follows that, according to the Sephardic educational tradition not just any school child had the right to announce about himself that he can indeed stand his own ground in all the six orders of the Talmud. All the more so they would not have been so audacious as to draw near to rule halakha from the Talmud without referring to the celebrated halakhic decisors whose rulings we depend on. There were few scholars who had indeed satisfactorily completed all the requirements of the third stage. Even they, since their deference was even greater than their wisdom, saw themselves as dwarves in comparison to the acknowledged decisors, and wouldn't rely on their own opinion unless they were firmly standing on the shoulders of giants, the knights of the nation of Israel. The opinion of R. Yosef ibn Megas on this central topic was guidance for the Sephardic sages who came after him<sup>35</sup>:

*Those who pretend to rule from in-depth understanding of halakha and from the strength of their research in the Talmud are those who should be held back from the same, since there is no one in our times who is fitting for that and not anyone who has attained in the wisdom of the Talmud to the extent that he might rule from his own research without taking into consideration the opinion of the Ge'onim of blessed memory. However one who rules from the responsa of the Ge'onim and relies on them –even if he is incapable of understanding Talmud he is more fitting and praiseworthy than the one who thinks that he is knowledgeable and relies on himself. The former, even if he rules from an unsound reasoning based on the proofs of the Ge'onim of blessed memory, nonetheless he is not mistaken in this as he acts however he does in accordance with a great court which is acknowledged by the masses. But someone who rules from his own insight into halakha may think that a particular situation requires a particular ruling but it doesn't really- his research has led him astray or he misinterpreted it. No one in our times has attained in Talmud a level by which he may rely on himself to rule directly therefrom...*

### 3. The Path of Teaching Talmud

The appearance of the Talmud in Spain was via the academies of Andalusia, in the South. In these academies they deferred to the academies of Babylonia and explained Talmud in light of Ge'onic interpretation. According to the approach they adopted, they focused on understanding the words of the Talmud but were uninterested in dialectics surrounding the argumentations of the Talmud. This era came to an end with the incursions of the al-Mohades into Southern Spain, around the second half of the twelfth century, when they destroyed the Andalusian communities. *The Halakhot* by R. Yişhaq al-Fasi, and *Mishne Tora* by Maimonides, are prime examples of works of this era in the fields of Talmud and Jewish law.

Following this the academies of Catalonia, in Northern Spain, achieved fame. The scholars of Catalonia adopted the methodology of the French rabbis. Through this they diminished the influence of the Andalusian scholars and paved a new path in Talmudic interpretation. R. Zerahia HaLevi, one of the earliest Catalonian scholars in this era, critiqued R. al-Fasi based on the explanations of the French scholars. Naḥmanides, R. Shelomo ben Abraham ibn Aderet and their disciples descended into the depths of the Talmudic argumentation and meticulously analyzed every detail, major or minor, in the Talmud's treatment of the issue. This era ended in the year 1391, when devastation and bloodshed destroyed the communities of Northern Spain.

From then until the expulsion in the year 1492, Tora grew

33 Mishne Tora, Yesode HaTora, 4:13.

34 Introduction to Mishne Tora. Compare the words of R. Yosef ibn Megas cited below.

35 Responsa of R. Yosef ibn Megas, §114. R. Yisra'el Moshe Hazan, in Teshubot HaGe'onim, Livorno, 1869, f. 118b, note 45, was the first to point out the importance of this responsum in understanding the approach of Sephardic rabbis to the process of halakhic ruling.

in the academies of Castile, in central Spain. The scholars of Castile blended together the methodologies used in Andalusia and in Catalonia. Through that they formed a set of frameworks and indices for understanding the wording of the Talmud and for evaluating arguments between the various commentators on the Talmud or the decisors.

These three periods were the foundation for the path of teaching the Talmud in the post-expulsion academies until the last generation preceding the First World War. These three periods parallel three focal points in Talmudic instruction.

The three points are the following: **reading (*girsā*)**, **perusal (*iyun*)** and **halakhic ruling (*pesaq*)**. These three hubs are representative of the three aforementioned periods. The first hub encompasses teaching the wording of the Talmud and its conclusions, ignoring the dialectical aspect. At the second hub one descends to the depths of the Talmud's argumentation. At the third, one is engrossed in the different opinions which were stated in regards to the framework of the Talmudic treatment of the issue in light of the rest of the sages' literature. Following is a description of these three hubs.

**Reading:** The goal at this hub is grasping "the form of the statement," that is to say the structure of the discussion of the Talmudic discourse. At first the student learns to read the extract exactly, in accordance with the rules of grammar and inflection. After literal explanation of the words of the text, one moves to the structure of the extract: defining the subject, the aim, and the stages of the development of the extract until its final conclusion. At this hub details are only dwelt on to the extent that they touch on the understanding of the complete piece. Similarly, not all commentaries are studied: the intent is to teach the student to see the text with his own eyes. Therefore it is incumbent on the student of this method to base any responsum on the text of Talmud itself without aid in the way of commentators. At this hub, one deals with the Talmudic terminology and the rules of Talmud and its characteristics. A first-rate teacher would convey to his student a thorough knowledge of these principles. Among the many books available to a teacher of this method, R. Yehoshua HaLevi's *Halikhot Qlam*; R. Shelomo di Oliviera's *Darkhé No'am*; and R. David Meldola's *Darkhé HaGemara* are worthy of mention.

**Perusal:** At this hub Talmud was studied only with the commentaries of R. Shelomo Yiṣḥaqi and the *Tosafot*. At first, the teacher leads his student to know their special terminology, their style and their ways of thinking. Involvement in the Talmudic piece includes both the dialectical aspect and a dissection of the details. It should be pointed out that at this hub involvement with the piece is through the commentary of R. Yiṣḥaqi and through the *Tosafot* alone, without significant

recourse to other pieces of Talmud or to other Talmudic commentators. The novellae of R. Shemu'el Eidel held a special place amongst ancillary compositions and were a key to understanding the *Tosafot* and R. Yiṣḥaqi. Among the many ancillary commentaries available to teacher and student, those of the following rabbis should be mentioned: Shelomo al-Gazi, Barukh Angel, Natan Bordjel, Nehora'i Jarmon, Abraham HaKohen Yiṣḥaqi, Moshe ibn Habib, Abraham Hagege, Yosef Hazan, Eliahu ben Yosef Hayim, Yosef ibn Leb, Yosef of Trani, Yiṣḥaq Nunez-Vaez, Yiṣḥaq ibn Ezra, Abraham Peraḥia Kohen, Yehuda Charmon, Hiyya Rofé etc. etc.

**Halakhic ruling:** At this hub the piece is learned in light of all of the sources of the sages and opinions of early and late commentators. The aim is two-fold: knowing the literature of the sages and of the commentators through their interrelatedness. Among the many works which were available to teacher and student at this hub, it is fitting to point out: *Shabbat Shel Mi (Tractate Shabbat)*, by R. Ya'aqob Shabbeta'i [Senegalia]; *Pe'at Yam (Beṣa)*, by R. Yiṣḥaq de Mayo; *Bet Mo'ed (Mo'ed Qaṭan, Makot)*, by R. Yiṣḥaq Gatigno; *Hina VeHsda (Ketubot)*, by R. Yehoshua Ardite; *Gebul Yehuda (Gitin and more)*, by R. Yehuda Ashkenazi; *Torat Nazir (Nazir)*, by R. Abraham Motal; *Pené Mebin (Sanhedrin)*, by R. Yiṣḥaq Navarro; the Novellae of R. Yosef Refa'el Hazan to *Tractate Shevu'ot*; *Qorban Elišur (Aboda Zara)*, by R. Mansour Marzouq; *Sha'ar Yosef (Horayot)*, by R. Hayim Yosef David Azula'i; *Minḥa Tehora (Menahot)*, by R. Hayim Abraham Gaguine; *Hilkhot Yom Tov (Bekhorot)*, by R. Yom Tov al-Gazi; *Ye'qar HaErekh (Arakhin)*, by R. Yiṣḥaq Ardite; *Simḥat Tora (Keretot and the minor tractates)*, by R. Yehuda Najar; *Me'il Ya'aqov (Me'il)* by R. Ya'aqov HaKohen; etc. etc.

There were scholars at this hub who anchored their teaching around *Mishne Tora*, *Bet Yosef*, or other works (such as the *Sefer Mišvot Gadol*, *Rabbenu Yeruḥam*, or likewise).

Not all scholars were successful in study at the advanced hubs. There were scholars who stood out because of their "aesthetic teaching", that is to say since they were fluent in the accuracy of their reading and text, in grammar and in the general principles of the Talmud. Other scholars were recognised as "masters of perusal", since they knew how to interpret every comment, minor or major, of the *Tosafot* and R. Yiṣḥaqi. However there were also those who, because they were privileged to perfect themselves at all three hubs, became known as renowned halakhic decisors.

Additionally, not every community had the opportunity to uphold higher educational establishments at which it was possible to perfect oneself at the three hubs. This was the case, for instance, in the communities of Amsterdam, London and Gibraltar. Although their

students had “aesthetic teaching” they were nonetheless required to import rabbis from Morocco, Venice, and the Land of Israel, to preside in the post of halakhic ruling. Those from such communities who wanted to study Talmud at the advanced hubs made their way to other places. There were indeed communities which became famous because their scholars were experts at perusal, like the scholars of Aleppo and North Africa. However there were yet certain communities which were celebrated for their capabilities in the third hub, like the scholars of Constantinople, Thessaloniki, İzmir and the Land of Israel (Jerusalem, Hebron, Tiberias and Şafed), and they became legendary as renowned decisors from whom instruction goes forth to all Israel.





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# THE ART OF STRINGENCY

BY RABBI YOSEF ZARNIGHIAN

*"I therefore declare that after my analysis of all possible angles that have been mentioned, about which, logic dictates [for me to] rule stringently, as this is a case relating to unlawful marital relationships, which is a grave matter, nevertheless, I [have ruled permissively], for I have put my trust in the kindness of The Exalted One, and because my intentions [in judgment] are for the sake of Heaven."<sup>1</sup>*

These brief but moving remarks from the renowned Sephardic Sage, Rabbi Samuel De Medina (1506–1589 CE) encapsulate the epitome of Sephardic jurisprudence: permissibility in practice under Jewish law within the framework of sincerity and honest analysis of authoritative sources. Rabbi De Medina (MaHaRaSHDa"m) was not only the author of the aforementioned ruling—permitting a woman to remarry after her husband's presumed death—he was also one of the most revered leaders of the Jewish community of Salonika, Greece. Throughout his decisions of halakha (Jewish law), one of MaHaRaSHDa"m's running themes is that of truth (*kefi ha-emet*).<sup>2</sup>

Although he often found room to rule on cases leniently, rigorous legal analysis does not always yield lenient rulings. There were instances when MaHaRaSHDa"m wished to rule leniently, but intuited a bias that he may have had in a case, which would lead him to place himself in the shoes

of the inquirer based on personal experiences that he faced in his life. In one striking example, MaHaRaSHDa"m relates how he wished to call off his engagement to a woman. Despite his lenient view in the matter, he was instructed by his mentor, Rabbi Joseph Taitaşak, to seek explicit permission from the father to end the marriage, as failing to do so would constitute a break of his oath to her.<sup>3</sup>

Other examples of adopting stringencies include MaHaRaSHDa"m's ruling to prohibit the consumption of cheese that was sold from a suspect vendor. Even though normal canons of halakha permit the consumption of cheese from any Jew, MaHaRaSHDa"m ruled that because the vendor in question had a pattern of deceit, with recurring accusation of swapping kosher cheese with non-kosher cheese, the lenient standard of presumed permissibility that normally applies to cheese would not apply in this case.<sup>4</sup> There are, however, two cases in particular that demonstrate MaHaRaSHDa"m's position on adopting legal stringencies.

The first case in question involved the status of produce of the shemita (sabbatical) year that was grown and packaged by non-Jewish farmers within the land of Israel. The early 16th century Court of Safed, headed by Rabbi Yosef Qaro (c. 1488-1575 CE), had ruled to exempt any tithes from being taken from such produce, despite the

1 She-elot u-Tshubot MaHaRaSHDa"m (Eben ha-'Ezer): res. no. 55

2 A term that MaHaRaSHDa"m uses hundreds of times: see, for example, *ibid* (Yoreh De'ah): res. no. 37, 47, 74, 101; (Eben ha-'Ezer): res. no. 4, 72, 131, 140, 206.

3 *Ibid* (Yoreh De'ah): res. no. 107

4 *Ibid* (Yoreh De'ah): res. no. 90.



practice of some Ashkenazi communities within Israel to separate *terumot* and *ma'aserot* tithes from non-Jewish produce grown in Israel. MaHaRaSHDa"m's insistence to rule leniently was based on three primary factors:

1. The supremacy of Maimonides
2. Defining what constitutes a "majority" view
3. The canon of stringency.

MaHaRaSHDa"m begins by noting that Maimonides explicitly rules that after the Tribes of Israel were exiled from their territories in Israel, the separation of tithes in Israel is only a rabbinic obligation.<sup>5</sup> Because the Sages obligated Jews to separate tithes on Israeli land<sup>6</sup>, any produce that is harvested and packaged by non-Jews would be exempt from tithes<sup>7</sup>. MaHaRaSHDa"m concludes this point as follows:

*It appears obvious and undoubtful to me that based on Maimonides' remarks, the produce of non-Jews, grown on their fields and processed by them in the land of Israel, are even rabbinically exempt from tithing requirements ... for even produce grown and processed in a Jewish owned field is biblically exempt [from tithing requirements nowadays] ... Whereas the produce that has been processed by non-Jews is incomparable to Jewish owned produce, far be such a notion from any thinking person, for if this were the case, such [a ruling would result] in a decree on top of a decree.<sup>8</sup>*

Secondly, the inquirer contended that the annual count of years leading to the *shemita* year is doubtful, and as such, two years of *shemita* ought to be observed. This doubt is based on a discrepancy between the *shemita* count of the Sages from the Early Middle Ages (Geonim) of Israel vs. Maimonides' personal count. According to Maimonides, the *shemita* year at the time of composing his work, the Mishne Tora, occurred in the year 4937 of creation (1107 CE), whereas the count of the Geonim had the *shemita* occur in the year 4936 (1106 CE). Ironically, Maimonides actually defers to the view of the Geonim, stating in part: "We rely on their opinion in this matter, and so based on their calculation, we rule on cases regarding tithes of *ma'aserot*, sabbatical produce, and sabbatical debt forgiveness, as judicial tradition and practice (*ha-qabbala vaha-ma'aseh*) are the great pillars of judicial rulings, and upon them is it most fit to rely."<sup>9</sup>

With the aforementioned background in mind, MaHaRaSHDa"m rules that the legal opinions of

Maimonides are superior to that of other scholars in this regard, due to his own merit and due to precedent. Quoting his other mentor, Rabbi Levi Ibn Habib, MaHaRaSHDa"m notes that when the Torah instructs us to follow the majority view of the Sages in legal matters (Ex. 23:2); this applies only when the majority is also comparable or greater in wisdom to that of the opposition. Because Maimonides' ruling was based on careful analysis and compelling arguments, MaHaRaSHDa"m ruled that there was no concern regarding the doubts in the count based on other legal opinions, even though they constitute a majority in opposition to Maimonides. Therefore, even though near unanimous opinion and practice from his predecessors differed from his view, MaHaRaSHDa"m rules:

*I am surely aware that the greatness of wisdom of Maimonides reaches the heavens; he has a full grasp of every field of wisdom... And despite most Geonim opposing Maimonides' view, this [majority] does not represent a majority in quality, for this [dissent] was not held by Rabbis Se'adya Gaon and Haya Gaon of blessed memory. Consequently, we do not depart from the rulings of the post-Talmudic Sages, despite the canon stating that the law follows the view of later generations, this does not apply here, where the earlier generation [of Sages] are of superior wisdom... And because the *shemita* is only rabbinically binding nowadays, it is sufficient for us to only observe one year of *shemita*, which is the year according to Maimonides' count, for his path [in ruling] is the straight path.<sup>10</sup>*

Lastly, MaHaRaSHDa"m concludes by defining the canon of stringency. In short: The public is never expected to go beyond that which the letter of the law dictates unless two criteria are met:

1. Only Jews of known diligence in observance may take on more than is required by law
2. There must be no reasonable concern that the public will mistake the stringent practice of a few for what the law truly dictates.

MaHaRaSHDa"m bases this ruling on a passage in the Talmud relating to reciting *qiddush* on Friday night. The law regarding ending one's afternoon meal in order to recite *qiddush* upon sunset was once unsettled, and when a student of Rabbi Yose wished to end his meal whilst his teacher ruled that this was unnecessary<sup>11</sup>, Rabbi Yose forced a vote on the matter in order to prevent the public

5 Mishne Tora, Laws of Terumot: 1:26. See also *ibid*, Laws of Shemita ve-Yobel: 10:8.

6 "Israeli" land is restricted to specific regions of the Levant, as outlined in Mishne Tora, *ibid*: 1:7-9.

7 Mishne Tora, *ibid*: 1:11;17.

8 She-elot u-Tshubot MaHaRaSHDa"m (Yoreh De'ah): res. no. 192.

9 Mishne Tora, Laws of Shemita ve-Yobel: 10:6.

10 She-elot u-Tshubot MaHaRaSHDa"m (*ibid*): *ibid*.

11 Pesahim 100a. MaHaRaSHDa"m also cites the view of R. Yishma'el (Berakhot 11a), during a demonstration he made at a meal, to stand during the evening recitation of the Shema while his colleague was sitting, not because the law required this, but because he wished dispel the notion that bodily position is a required component of reciting the Shema.



from adopting a stringent view that was, in his view, unnecessary. MaHaRaSHDa”M concludes by dissenting from the decree of excommunication upon those who privately chose not to eat the produce of non-Jews in Israel, by Rabbi Qaro’s court in Safed. For MaHaRaSHDa”M, privately choosing not to eat such produce posed no threat to public leniency, and so he ruled:

*It is indeed correct that the seal of the Holy One, blessed be He, is that of truth, and so we must fulfill that which is true according to its truthfulness, even if [the ruling in question] is lenient. Nevertheless, I am of the opinion that the [court of Safed] went beyond its authority... It is even proper for a [qualified] person to endanger himself in order to fulfill stringent pious conduct, per the statement found in the Talmud Yerushalmi... regarding a fugitive of the [Roman] Empire who fled to Lod; to Rabbi Joshua b. Levi. The Empire then surrounded the city and he handed him over to them. Elijah would usually appear to him, but he no longer did so. He fasted many fasts; until he appeared to him, and said: ‘do I appear to informers?’ He said to him: ‘did I not act according to the law?’<sup>12</sup> He said to him: is that a law [to be followed] for the pious?’ ...We may conclude that a person of note (‘adam ḥashub’) should act in a more stringent manner, beyond what is required under the letter of the law.*

It is no surprise to see the depth of analysis, wisdom, and consideration, in MaHaRaSHDa”M’s responsa.

What is most important to glean from the above-cited teachings is that of tradition—the heritage of nuance and independence in the practice of Jewish law. Our Sephardic heritage is far from homogenous, but what is shared by MaHaRaSHDa”M and virtually all other Sephardic sages, is the pursuit of truth, as the Prophet Zekhariah said: *These are the things that you shall do: Speak the truth to one another; render judgment with truth and peaceful justice within your gates ( 8:16).*



<sup>12</sup> Talmud Yerushalmi: Terumot 8:4.

# THE TORAH'S ATTITUDE TO MAGICAL THOUGHT & PRACTICE\*

BY SINA KAHEN

A central aspect of a Torah-led life revolves around the delicate equilibrium between the observed natural order and what may lie beyond. This balance dictates the prohibition of certain practices, including black magic, divination, astrology, and related occult arts<sup>1</sup>. Irrespective of the reasons or objectives behind engaging in these activities – even if they are noble or beneficial – the Torah's decree is clear and unequivocal: these practices are strictly forbidden.<sup>2</sup>

This directive is explicitly articulated in the Torah:

*"There shall not be found among you anyone who... uses divination, or a soothsayer, or an enchanter, or a witch, or a charmer, or a medium, or a wizard, or a necromancer. For those who do these things are an abomination to the Lord, and because of these abominations the Lord your God drives them out from*

*before you... For these nations...listened to soothsayers, and to diviners; but as for you, the Lord your God has not allowed you to do so."*<sup>3</sup>

This passage forbids engagement with a range of activities considered to be occult or magical. The passage strongly advises against meddling with the divine order and enjoins followers to trust in God's natural sequence of events, without attempts at manipulation or interference.<sup>4</sup>

Yet, Halakha provides a fascinating exception: those serving on ancient rabbinical courts were allowed to study black magic, albeit for a specific purpose. The reason behind this was to enable them to recognise when someone was practising magic, thereby providing them with the necessary knowledge to rightfully condemn such practitioners.<sup>5</sup> Further reinforcing the prohibition on occult arts, Halakha explicitly forbids



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1 Occult refers to mystical, supernatural, or magical practices.

2 As Hakhm Dr José Faur points out in his essay, "Monotheism & Magic" in *Harvard Theological Review: Jewish opposition to magic is old. Magic is intrinsic to Aboda Zara* (imperfectly translated "idolatry," but actually meaning "strange" i.e. unprescribed, "worship," encompassing any ritual not included in the Jewish way of worshipping, even when directed to God). In a deep sense, magic and religion compete for the same things and apply similar methods: both aim at affecting the effects of this world by influencing the realm of the beyond. The Talmudic legend that Abraham taught the art of necromancy to children of the concubines (*Sanhedrin*, 91a, cf. Rashi ad. loc.), reflects the intimate relation between magic and religion. Although one is superior to the other, both were taught by the patriarch Abraham, hence the fierce rivalry between them. Traces of this fight are found in Rabbinic literature (*Mishna Sanhedrin*, VI 4 and P.T. ad. Lock; *Bekhorot*, 8a-9a, etc.). This brings us to a fundamental problem: how to distinguish between them. At the practical level there was no problem. Certain rituals and acts were classified as "magical," others as "religious". Conceptually, however, it was another matter. The distinction between "white" and "black" magic (or "good" and "evil" spirits etc.) usually made in this connection, cannot be accepted by a monotheistic religion believing in one omnipotent God, Creator of everything, "pure" and "impure"...The same concern is evident in Elijah's prayer that his miracles not be perceived as necromancy (*Berakhot*, 6b)...There is no doubt that Maimonides' statement that magic is sheer nonsense and useless (*Aboda Zara* XI, 17) offended the religious sensitivities of many. To them, denial of the magical was tantamount to denial of the miraculous.

3 Deuteronomy 18:10-14:

לא ימצא בך... קסם קסמים מעונן ומנחש ומכשף: וחבר חבר ושאל אוב וידעני ודרש אל המתים: כי תועבת יי' כל עשה אלה ובגלל התועבת האלה יי' אלהיך מוריש אותם מפניך:...כי הגוים האלה אשר אתה יורש אותם אל מענבים ואל קסמים ישמעו ואתה לא כן נתן לך יי' אלהיך.  
See also Leviticus 19:26.

4 Rashi on Deuteronomy 18:13:

"התהלך עמו בשלימות ותצפה לו, ולא תסמוך על המנחשים ועל המעוננים"

5 *Menahot* 65a:

"דאמר רבי יוחנן אין מושיבים בסנהדרין אלא... בעלי כשפים"



experimenting with any form of occultist practices. It extends its stricture to consulting astrologers for advice<sup>6</sup>, relying on omens and amulets<sup>7</sup>, and attempts to communicate with the dead<sup>8</sup> or demons.<sup>9</sup> It emphasises the need to dismiss any claims of supernatural powers by astrologers, sorcerers, or other self-proclaimed wise men. This is underlined by HaRaMBa”M’s assertion that anyone who believes in such practices lacks intelligence:

*“All the above matters [magic and superstitious arts] are falsehood and lies with which the original idolaters deceived the gentile nations in order to lead them after them. It is not fitting for the Jews who are wise sages to be drawn into such emptiness, nor to consider that they have any value as [implied by Numbers 23:23]: “No black magic can be found among Jacob, or occult arts within Israel.” Similarly, Deuteronomy 18:14 states: “These nations which you are driving out listen to astrologers and diviners. This is not [what God... has granted] you. Whoever believes in [occult arts] of this nature and, in his heart, thinks that they are true and words of wisdom, but are forbidden by the Torah, is foolish and feebleminded.*

*He is considered like women and children who have underdeveloped intellects.*

*The masters of wisdom and those of perfect knowledge know with clear proof that all these crafts which the Torah forbade are not reflections of wisdom, but rather, emptiness and vanity which attracted the feebleminded and caused them to abandon all the paths of truth.”<sup>10</sup>*

Additionally, HaRaMBa”M’s prohibition is not limited to practices traditionally seen as occult. It also warns against engaging in sleight-of-hand magic, subtly hinting that even seemingly innocuous practices can be seen as straying into forbidden territory.<sup>11</sup> His disbelief in magic and his claim that magic spells are mere placebos, possessing no real effect is further codified by Maran in the Shulḥan Arukh.<sup>12</sup> HaRaMBa”M also considered preoccupation with such activities as “repulsive,” even if some activities are not explicitly prohibited by the Torah<sup>13</sup>.

This perspective is contrasted by the more Kabbalistically-inclined Vilna Gaon, who, while maintaining the need to avoid such practices, asserts that diviners and

6 Rambam, Hilkhoh Aboda Zara 11:8:

אי זה הוא מעונן, אלו נותני העיתים, שאומרים באסטגנינות, יום פלוני טוב, יום פלוני רע, יום פלוני ראוי לעשות בו מלאכה פלונית, שנה פלונית או חודש פלוני רע לדבר פלוני

Y.D. 179:1:

אין שואלים בחושים בכוכבים ולא בגוֹרלות

7 Y.D. 179:3:

האומר: פתי נפלה מפך, או מקלי מיד, או בני קורא לי מאחרי, או שצבי הפסיקו בדרך, או שעבר נחש מימינו או שועל משמאלו, ולמי שארע לו אחד מאלו עושה ממנו נחוש שלא לצאת לדרך או שלא להתחיל במלאכה, וכן המנחשים בחלדה ובעופות ובכוכבים, וכן האומר: אל תתחיל לגבות ממני, שחרית הוא, מוצאי שבת הוא, מוצאי ראש חדש הוא, וכן האומר: שחט תרנגול שקרא כעורב, ותרגלת זו שקראה כתרנגול, אסור

8 Y.D. 179:13: "דורש אל המתים זה שמרעיב עצמו ולן בבית הקברות כדי שתשרה עליו רוח הטומאה"

9 Y.D. 179:16: "מעשה שדים, אסור. ויש מי שמתיר לשאל בהם על הגנבה"; ibid 19: "מעשה עובד עבודת כוכבים";

10 Rambam Hilkhoh Aboda Zara 11:16:

ודברים האלו כולם דברי שקר וכזב הן, והם שהטעו בהן עובדי עבודה זרה הקדמונים לגויי הארצות כדי שייבהו אחריהן, ואין ראוי לישראל שהן חכמים מחוכמים להימשך בהבלים אלו, ולא להעלות על" (דברים י"ח:ד"ד) הלב שיש בהן תעלה, שנאמר "כי לא נחש ביעקב ולא קסם בישראל" (במדבר כ"ג:ג), ונאמר "כי הגוים האלה אשר אתה יורש אותם אל מעוננים ואל קוסמים ישמעו ואתה לא כן נתן לך יי אלהיך"

כל המאמין בדברים אלו וכיוצא בהן, ומחשב בליבו שהן אמת ודברי חכמה אבל התורה אסרה אותם, אינו אלא מן הסכלים ומחסירי הדעת, ובכלל הנשים והקטנים שאין דעתן שלימה. אבל בעלי החכמה ותמימי הדעת ידעו בראיות ברורות שכל אלו הדברים שאסרה תורה אינן דברי חכמה, אלא תוהו והבל, שנמשכו בהן חסידי הדעת ונטשו כל דרכי האמת בגללן

11 Rambam Hilkhoh Aboda Zara:

"וכן, האוחז את העינים ומדמה בפני הרואים שעושה מעשה תימהון והוא לא עשה, הרי זה בכלל מעונן, ולוקה"

12 Rambam Hilkhoh Aboda Zara 11:11

quoting "מי שנשכו עקרב או נחש, מותר ללחוש על מקום הנשיכה, ואפילו בשבת, כדי ליישב דעתו ולחזק לבו. אף על פי שאין הדבר מועיל כלום, הואיל ומסוכן הוא, התיירו לו, כדי שלא תיטרף דעתו עליו"

in Shulḥan Arukh, YD 179:6 Responsa of the Rambam, siman 218

13 Responsa of the Rambam, siman 218

their ilk possess actual supernatural powers, and that HaRaMBa”M’s contrary position was due to him being “led astray by the accursed Greek philosophy”<sup>14</sup>. *Side point: The Vilna Gaon’s comments alone are proof that HaRaMBa”M did not believe in magic, contrary to some recent revisionists who turn Maimonides into My-Monides to fit their own personal (and often magical) agendas.*

Of course, HaRaMBa”M was not alone in this repulsion. Rabbenu Abraham ibn Ezra, his fellow Andalusian, strongly chastises those who claim that the Torah’s prohibition of these actions is proof that they are real:

*“Those with empty brains say, ‘Were it not that fortune tellers and magicians were true, the Torah would not prohibit them.’ But I (Ibn Ezra) say just the opposite of their words, because the Torah doesn’t prohibit that which is true, but it prohibits that which is false. And the proof is the prohibition on idols and statues.”<sup>15</sup>*

Rabbenu David Qimḥi (Radaq) uses more colourful language. In his commentary to the book of Samuel, he discredits necromancy by referring to it as “nonsense, lies, and ridiculous”<sup>16</sup>.

Rabbenu Se’adya Gaon was also against the idea that magic had any real credibility. He writes<sup>17</sup> that the acts performed by Pharaoh’s “magicians” were simply sleight of hand, and nothing more. He states that these “magicians” imitated the Plague of Blood using red dye, and they imitated the Plague of Frogs by placing chemicals in the Nile River that caused the frogs to leap from those poisons. Further, Rabbenu Ḥananel ben Ḥushiel not only states that these Egyptian “magicians” were illusionists, but also applies this to stories in the Talmud of *Amoraim* “creating” people and animals.<sup>18</sup>

This is not exclusively a Geonic or Sepharadi position. The great Ashkenazi leader, Rabbi Shimshon Raphael Hirsch, in his commentary on the Torah<sup>19</sup>, referred to such magical

things as “more than a laughable, absurd delusion”, and argues that involvement in such activities not only leads one to heresy but also profoundly influences one’s world view. He contends that such practices entice individuals to seek guidance from sources other than God, thereby leading them astray.

### Other Approaches

As is evident, the approach we have explored thus far holds the view that magic and superstition are futile endeavours, constituting mere nonsense and disassociating humans from higher truths. If we zoom out on Jewish tradition, however, there seems to be two<sup>20</sup> other approaches to magic.

A second approach is dedicated to those who are more Kabbalistically inclined, represented by the likes of the RaMBa”N (Nahmanides), who posit that magic is indeed real and potent. However, RaMBa”N maintains that the Torah prefers that one be “simple and perfect” in his service to God, discouraging the pursuit of aggressive methods of divine intervention, despite their alleged effectiveness.<sup>21</sup> This approach is further elaborated by him as he explains<sup>22</sup> that the prohibition is limited to actively seeking fortune-telling and the like. The Ran<sup>23</sup> also acknowledges the potential potency of magic but elucidates that the Torah explicitly forbids its use because it is regarded as a divine instrument, not intended for human manipulation.

A third approach supports the first group, but understands the second! We see this, for example, in none other than the Meiri. He provides commentary to a Talmudic passage<sup>24</sup> that engages with the concept of pairs (*zugot*), questioning how the Rabbis could have established the four cups of Seder night despite the apparent danger associated with pairs.<sup>25</sup>

The Meiri explains<sup>26</sup> that during the times of the Talmud, a significant percentage of the nation was attracted to superstitious practices and beliefs. Since these practices

14 Vilna Gaon, Be’ur Ha’Gra on YD 171:6 note 13: “... והפלוסופיא הטנו ברוב לקחה לפרש הגמרא הכל בדרך הלציי וקמיעות הכל הוא שקר אבל כבו אותו על קדקדו שהרי מצינו הרבה מעשיות בגמרא ... וכן קמיעין בהרבה מקומות ולחשים רבו מלספר. והפלוסופיא הטנו ברוב לקחה לפרש הגמרא הכל בדרך הלציי ולעקור אותם מפשטן וח”ו איני מאמין בהם ולא מהם ולא מהמונם אלא כל הדברים הם כפשטן אלא של בעלי הפלוסופיא שהם חצוניות אלא של בעלי האמת וריקי מוח אמרו: לולי שהאוב אמת, גם כן דרך הכשוף, לא אסרם הכתוב. ואני אומר הפך דבריהם, כי לא יאסור הכתוב האמת, רק השקר. והעד: האילנים.”

15 Commentary on Leviticus 19:31: “הפסילים”

16 Commentary on 1 Samuel 28:24: “וראינו מחלוקת בין הגאונים בדבר הזה, וכלם נשתו כי מעשה האוב הבל ותוהו ודברי כזב והתול.” In the very same passage, he cites the position of Shemuel ben Ḥofni, a renowned Babylonian Gaon: “לא יקובלו הדברים במקום שיש מכחישים להם.”

17 Sefer Emunot V’Deot 3:5 “לבריה מהם הצפרדעים”

18 Commentary on Sanhedrin 65b: “אמר רבא או דבעו צדיקי ברו עלמא, כלומי’ אלו היו הצדיקים רוצים לבקש רחמים לפני הקב”ה שיברא עולם אחר, הקב”ה עושה רצונם, כדכתיב ותגור [א]ומר [ו]י[א]קם לך וגו’. רבא באחיות עיניס ברא אדם, בקש להודיע מעשה חרטומי מצרים, כשם שעשו בלהטים מן המטה נחש כך עשה”

19 Commentary to Leviticus 19:26 (original German): “Ein solches Verbot wäre nun nichts als ein zu belächelnder denkwidriger Wahn, wenn es nicht gleichzeitig die Leugnung einer sittlich freien göttlichen Weltordnung und -Waltung involvierte und auf die sittlich freie Tätigkeit des Menschen einen schädlich hemmenden Einfluss übte, die Gott hinsichtlich ihrer Ziele, ihrer Zulässigkeit oder sittlichen Notwendigkeit lediglich auf sein Gesetz, sowie hinsichtlich der Ausführbarkeit auf die von Ihm verliehene vernünftige Einsicht hingewiesen hat.”

20 ...or one and a half!

21 RaMBa”N, commentary on Deuteronomy 18:9-13: “... ותעם” ... וכל זה איננו תועבה בעיני אדם אלא חכמה תחשב להם ... וטעם”

22 See Responsa of the RaSHB”A attributed to the RaMBa”N, no. 283.

23 See the end of Derashot HaRaN 4.

24 Pesahim 109b: “היכי מתקני רבנן מידי דאתיבה לידי סכנה? והתניא: לא יאכל אדם תרי, ולא ישתה תרי, ולא יקנה תרי, ולא יעשה צרכיו תרי.”

25 The Talmud adds that the fear of drinking an even number of cups is typically a Babylonian fear, but “in the West [i.e. in Palestine] they do not fear even numbers.” For the possible Zoroastrian and Babylonian contexts of some of these beliefs, see Isaiah Gafni’s works.

26 Bet Ha’Behira, Pesahim 109b: “לא חששו בהם חכמים לעקורם וכל שכן במה שהיה הרגילות אצלם בו כל כך שהיה טבעם מקבל בענין חזק או חולשה וכמו שהעידו בסוגיא זו”



for a man to abandon the prevailing law and raise once again the counterarguments and replies (that preceded its enactment). Similarly, it is not proper to abandon matters of reason that have already been verified by proofs, shake loose of them, and depend on the words of a single one of the sages from whom possibly the matter was hidden. Or there may be an allusion in those words... A man should never cast his reason behind him, for the eyes are set in front, not in back."<sup>28</sup>

Rabbenu Hai Gaon of Babel zooms out with a broader principle. According to him, one can disregard Talmudic passages that do not make sense, as aggadot and midrashim, even if present in the Talmud, are not based on tradition, but rather individual interpretation.<sup>29</sup> Another Babylonian Gaon, Rabbenu Sherira Gaon, further clarifies that these midrashic interpretations, or aggada, are considered as estimates and are not always reliable:

*"These words that are derived from verses and are called midrashim or aggada are estimations (umdena)...Some are indeed correct, but many are not correct...Therefore we do not rely on aggada...Accept as reliable only those that follow from reason/intellect or from the verses."*<sup>30</sup>

Indeed, the belief in such magical concepts was merely a product of the time. Throughout Jewish history, the scientific ideas of yesterday have often become the pseudoscience or superstition of today – and nobody was immune to them. As HaRaMBa"m notes:

*"Even the good and pious among the followers of our Torah believe these things to be true, but forbidden simply on account of the Torah. They do not realise that these are baseless and false things that the Torah warns about in the same way it warns against lying."*<sup>31</sup>

Ḥakham Yaaqob Anatoli (13th century) repeats this sentiment in no uncertain terms:

*"Most of our people, including the well-known scholars among us, have their faith corrupted due to this... and until now they stumble with the stupidity of demons [shedim] and the like..."*<sup>32</sup>

did not entail any prohibitions of idolatry or *Darkhe Ha-Emori* (superstition, literally "the way of the Emorites"), the Rabbis did not protest. However, he reiterates that there is no truth to these concerns, and therefore one does not have to be concerned at all.

### What about the Talmud?

Turning our attention to the Talmud, one inevitably encounters references to occult practices and other seemingly magical phenomena. Do these passages provide stumbling blocks to what we have explored thus far?<sup>27</sup>

In his renowned Letter on Astrology, HaRaMBa"m responds to this very challenge by strongly denouncing the supposed magic of astrology and dismisses certain Talmudic references that seemed to support its legitimacy. He wrote:

*"I know that you may search and find sayings of some individual sages in the Talmud and Midrashim whose words appear to maintain that at the moment of a man's birth, the stars will cause such and such to happen to him. Do not regard this as a difficulty, for it is not fitting*

27 King Solomon, revered for his wisdom, is believed to have captured the essence of the challenge in his phrase in Proverbs 1:6:

לְהִבִּין מִשָּׁל וּמִלִּצְיָה דְבָרֵי הַחֲכָמִים וְהַיְדִיּוֹת

28 RaMBa"m, Iggeret LeHakhme Kehal Ir Marseilles:

ואני יודע שאפשר שתתפשו ותמצאו דברי יחידים מחכמי האמת רבותינו ע"ה בתלמוד ובמשנה ובמדרשות, שדבריהם מראים שבעת תולדות של אדם גרמו הכוכבים כך וכך. אל יקשה זה בעיניכם, שאין דרך שנגניח הלכה למעשה ונהדר אפירכי ואשינויי. וכן אין ראוי לאדם להניח דברים של דעת שכבר נתאמתו הראיות בהן, וינער כפיו מהן ויתלה בדברי יחיד מן החכמים ע"ה, שאפשר שנתעלם ממנו דבר באותה שעה, או שיש באותם הדברים רמז ... ולעולם אל ישליך אדם דעתו אחריו כי העיניים הם לפנים לא לאחור

29 Oṣar Hageonim, Ḥagiga 14b: אלא 'אפשר' והמדרשות הללו לא 'דבר שמועה' הם, ולא דבר הלכה, אלא 'אפשר'

30 Oṣar Hageonim Ḥagiga 14a:

הני מיילי דנפקי מפסוקי, ומקרי מדרש ואגדה, אומדנא ניהו ויש מהן שהוא כך ... והרבה יש שאינו כך ... ולכן אין או סומכין על דברי אגדה. והנכון מהם מדבריהם, מה שמתחזק מן השכל ומן המקרא

31 Mishna Aboda Zara 4:7, Perush of HaRambam:

ואפילו טובים וחסידים מאנשי תורתנו חושבים שהם דברים נכונים אלא שהם אסורים מטעם התורה בלבד, ואינם יודעים שהם דברים בטלים ושקריים הזהירה התורה עליהם כדרך שהזהירה על השקר. והם דברים שנגעשה להם פרסום רב אצל העמים, והיסוד לכך הם "אלצאבה", והם האנשים אשר רחק אברהם איבנו מהם וחלק על דעותיהם הנפסדות במה שנתן ה' בלבן מן החכמה. והיו מכבדים את הכוכבים ומיחסים להן פעולות לא להן, והם אשר יסדו את גזירת הכוכבים והכישוף והלחשים והורדת הרוחניות ושיחות הכוכבים והשדים והקסם והניחוש לכל ריבוי מיניהם, ודרישת המתים, והרבה מן הענינים האלה אשר שלפה תורת האמת חרבה עליהם וכתרה אותם, והם שורש עבודה זרה וענפיה

32 Malmad HaTalmidim, p.148:

החטא הגדול הנמשך אז לה המין הוא נמצא בנו היום במה שדברה בו תורה בלשון בני אדם עד שרוב בני עמינו אף החכמים הנודעים בעמנו אמונתם נפסדת לסבת זה ועד עתה הם נכשלים בהבלי השדים וכיצא בהם. וכאשר למד השם את עמו חוקים ישרים ותורות אמת הזהיר אזהרות רבות מלכת בחוקות הכופרים כדי למחות הדעת הרע שהתפרסם ביניהם וכדי להחזיק באמונה האמיתית שהממשלה לשם לבדו ואין שם שטן וזלת הטבע הנמשך לחומר והוא שאמר לו השם הנו בידך והוא הצריך לדברים ההרים והנפסדים ולולי זה לא היה להם מצאיות

More recently, Ḥakham José Faur reiterated this oft-forgotten reality:

*“Although the Scripture and the Rabbis opposed magic and demonology, many Jews, even among the learned and pious, were influenced by the general trend of their times.”*<sup>33</sup>

Therefore, when it comes to the presence of seemingly magical *midrashim and aggadot* in the Talmud, Rabbenu Abraham ben HaRaMBa<sup>34</sup> provides us with the clearest response. He explains that the non-legal opinions of our Talmudic Sages such as those on medicine, science, astronomy need not be “answered for” or “maintained”:

*“It is your duty to know that anyone who wishes to uphold a known theory and admire its author by [blindly] accepting it without proper analysis or verification of its truth, is [considered to possess] a deficient character trait. This is forbidden according to the way of the Torah, and is not an intelligent approach... We are not bound to the Talmudic Sages because of their greatness and wisdom, or because of their expertise in explaining the Torah with its fine details, or because of the truth of their statements when elucidating the general and specific components [of the Torah], [that we must] answer for them and maintain their views regarding all they say concerning medicine, science, or astronomy. We are not required to say the truth is with them in these matters in the same way in which we believe them regarding their explanations of the Torah, since [only] this form of wisdom [that is to say: exposition of the Torah] is their mastery, and to them was given the jurisdiction to instruct people in it.”*<sup>35</sup>

Another Sepharadi Rishon, Ḥakham Eliyahu Del Medigo highlights this clear distinction:

*“The Talmud is divided into two parts: one for the exposition of all the laws, and the other for homiletical interpretations and stories [midrashim and aggadot]. The first part, without a doubt, any faithful person from our people agrees that it should not be disputed at all, as already stated. However, the second part may sometimes be disagreed upon, and no mistake occurs in this. This is because the Torah obligates us to listen to the Sages only in matters of law that involve action, or in matters concerning the fundamental principles of faith that are agreed upon.”*<sup>36</sup>

**It is the laws – not the contemporaneous ideas – of the Talmud that are binding upon Am Yisrael.**

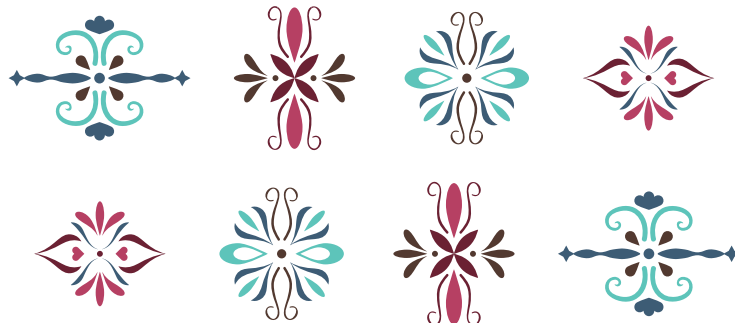
## Conclusion

It is worth highlighting the guidance our *Ḥakhamim* provide in their steadfast rejection of magic, the occult, and associated superstitious acts and beliefs. They counsel us to place our trust not in fanciful illusions that take us away from reality, but in the natural order of reality itself - as established and maintained by God. This approach does not diminish or sideline the complexities of life, but rather invites us to embrace the genuine wisdom of the Torah, free from childish distractions. It is a perspective that encourages discernment. After all, it is entirely possible for such practices to be graced with the cloak of Judaism to appear well-intentioned, perhaps even promising divine insight, but upon closer examination, they might be not too dissimilar to the magic that so many of our *Ḥakhamim* warned against.

So, we should all take a moment to reflect. Could any of our own beliefs or practices, even unknowingly or well-intentionally, be resonating with elements of magic or superstition? Do they promise a control over the natural order or a privileged access to hidden knowledge? Are they anchored in the Torah's primary concern about idolatry, or are they perhaps pandering to a desire for control and certainty?

Insight is the key here. It is not about inducing guilt or anxiety, but about developing an understanding. If these practices serve as a detour from the reality of God and His Torah, then a reassessment might be worth considering.

The legacies left by our *Ḥakhamim* are enriched with wisdom and guidance. We do them and the Torah honour by introspecting on our thoughts and actions. As we navigate life's course, let us aim to lean into the reality of our existence alongside God, rather than seek to control it through magical and superstitious means. As appealing as it might be, the realm of magic and superstition is one that many in our cherished tradition encourage us to sidestep in favour of a more genuine, mature path to *Berit*.



33 Ḥakham José Faur, *A Crisis of Categories: Kabbalah and the Rise of Apostasy*

34 Letter on the Derashot and Aggadot of Ḥazal (See Chapter 2, Understanding Ḥazal, translation by Rabbi Yitzhak Berdugo). Available on [www.daat.press](http://www.daat.press)

35 דע בי אתה חייב לדעת, כל מי שירצה להעמיד דעת ידועה, ולישא פני אומרה, ולקבל דעתו בלי עיון והבנה לעניין אותו דעת אם אמת אתה אם לא, שזה מן הדעות הרעות, והוא נאסר מדרך התורה וגם מדרך השכל... לא נתחייב מפני גודל מעלת חכמי התלמוד ותכונתם לשלמות תכונתם בפירוש התורה ובדקדוקיה וישר אמריהם בביאור כלליה ופרטיה, שנטען להם ונעמיד דעתם בכל אמריהם ברפואות ובחכמת הטבע והתכונה, [ולאמין] אותן כאשר נאמין אותן בפירוש התורה, שתכלית חכמתה בידם, ולהם נמסרה להורות לבני אדם

36 Behinat HaDat ed. Isaac Reggio, Vienna 1833, p.55-56:

התלמוד נחלק לב' חלקים. חלק בהודעת הדינים כלם, וחלק במדרשות ואגדות. והחלק הראשון אין ספק אצל כל בעל דת מאנשי אומתנו שאין ראוי לחלוק עליו כלל כאשר כבר נאמר, אולם החלק השני "הוא אשר יתכן לפעמים שלא נסיכים כי לא יקרה בזה חטא. וזה כי התורה לא חייבתנו לשמוע לחכמים אלא בעניני הדינים אשר בם מעשה או בעניני פרשי האמונה המוסכמים מהם



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# ON "REASONS" AND "TASTES" FOR THE COMMANDMENTS

BY RABBI NETANEL WIEDERBLANK

Perhaps the most controversial and misunderstood section of *More HaNebukhim* is the section where he offers reasons for specific *mišvot*. RaMBa"M, in the third book of *More HaNebukhim* considers scientific motivations for *mišvot*. Consider this example from 3:48 where he explains the reason for all of the prohibited foods. According to RaMBa"M most foods are prohibited because they are unhealthy or superfluous. Pork is also restricted because it promotes filthiness in its inhabitations. Likewise, the proscription against meat boiled in milk also stems from its inclusion in some sort of idolatrous ritual. RaMBa"M supports this thesis from the verse that prohibits the cooking of meat and milk in the context of the Jewish pilgrimage.

Along similar lines RaMBa"M writes that the reason for the sacrificial rite is because the Jewish people upon leaving Egypt were steeped in a world of idolatry. To tell them to serve God without *korbanot* would not have been effective. Instead, he instructed the Jewish people to sacrifice to God alone. This would, hopefully, wean them from their idolatrous inclinations and bring them to serve God. RaMBa"M actually says much more than this, but, for our purposes this summary suffices.

These sorts of historical and biological reasons for *mišvot* understandably provoked great opposition and confusion. Among other things they might indicate that sacrifices will be pointless in the messianic era. Yet RaMBa"M explicitly states that the messianic era will usher in the reinstating of the sacrificial rite—in a world in which knowledge of God will fill the land as the sea covers the seabed.

Among the defenders of RaMBa"M there are many theories. Some suggest that RaMBa"M did not intend that his explanations for *hukim* were the entire purpose for God's prohibition. In this essay we consider an approach adopted by some medieval scholars and modern thinkers that go one step further. It argues that RaMBa"M's reasons in *More HaNebukhim* reflect only one particular facet of the *mišva*. More specifically, the work seeks to explain only the this-worldly benefit of performing the *mišva*.

To appreciate how we must consider that RaMBa"M maintains that there are two general goals for *mišvot*: a this-worldly goal and an other-worldly spiritual goal. Let us consider two places where RaMBa"M makes this distinction.

## הלכות מעילה פרק ח

והמשפטים, הן המצוות שטעמן גלוי וטובת עשייתן בעולם הזה ידועה, כגון איסור גזל ושפיכות דמים וכיבוד אב ואם; והחוקים, הן המצוות שאין טעמן ידוע.

*Mishpatim* are those *mišvot* whose motivating rationale is openly revealed and the benefit of their observance in this world is known, e.g., the prohibitions against robbery and bloodshed and honoring one's father and mother. The *hukim* are the *mišvot* whose motivating rationales are not known.

The implication is that a *mišva* has value both in *olam ha-zeh* and *olam ha-ba*. When it comes to *mishpatim* we can readily understand the this-worldly benefit of the *mišva*, but not the other-worldly benefit. When it comes to *hukim*, where even the this-worldly benefit is mysterious, the other-worldly benefit is certainly unfathomable.



In *More HaNebukhim* 3:27 RaMBa"m writes that each *mišva* is meant to influence either (1) the "welfare (*tikkun*) of the body,"<sup>1</sup> the "welfare (*tikkun*) of the soul," or (2) the more the lofty "perfection (*shelemut*) of the body," or "perfection (*shelemut*) of the soul."<sup>2</sup> What exactly is the difference?

R. Yiṣḥak Arama (1420-1494)<sup>3</sup> in Parshat Hukat suggests that the latter (*shelemut*) refers to preparation for eternity (*olam ha-ba*). Accordingly, he argues that RaMBa"m maintains that these two aims correspond to the two purposes of *mišvot*: (1) to improve life in this world and (2) to prepare a person for *olam ha-ba*. In Book Three of *More HaNebukhim* RaMBa"m presents reasons for *mišvot* based on the first goal.

Moreover, while all *mišvot* relate to both worlds, some are primarily this-worldly focused and others are principally other-worldly focused. Naturally, we easily relate to the first category. With respect to these *mišvot* we can easily ascertain the reason of the *mišva* as we can see its benefit. However, concerning the latter category, any attempt to search for reasons will leave us flummoxed. This is because, as RaMBa"m emphasises in *Hilkhot Teshuba* (Ch. 9) we cannot relate to the spiritual nature of the next world<sup>4</sup>. Just as we have no means to conceive of the next world, so too we have no way to conceive of how *mišvot* can help us reach that world. This latter category is known as *ḥukim*.

Accordingly, R. Arama suggests that when RaMBa"m offers reasons in the *Moreh* he does not intend to give us the entire rationale. If that were the case, why would we long for the return of the sacrificial rite in a world that no longer pines for idolatry<sup>5</sup>. (We will turn to RaMBa"m's theory on *korbanot* in 36.7.) Rather, RaMBa"m's sole purpose is to show the this-worldly benefit of *mišvot* since, as we mentioned, all *mišvot* have some this-worldly benefit<sup>6</sup>. RaMBa"m does not attempt to describe the other-worldly benefit of *mišvot*, since this

is not something we can relate to anyway. However, we should not be surprised that many of RaMBa"m's reasons seem incomplete, since RaMBa"m is only explicating one aspect of the *mišva*.

If his *ta'ame ha-mišvot* are so incomplete why does he bother offering them? In 3:25 he tells us his goal was to explain how God's commandments are "good and excellent" – that they aim and attain some noble end – and not "futile," "frivolous," or "vain." Accordingly, RaMBa"m's reasons seem deficient with respect to *ḥukim* which are primarily other-worldly<sup>7</sup>. Thus, when RaMBa"m tells us that the Torah prohibited consumption of prohibited foods because of the negative effects on health, he is only telling us the this-worldly reason for the *mišva*, but would say that there is another, unfathomable other-worldly benefit as well<sup>8</sup>. If this explanation is correct we can easily understand how RaMBa"m offers reasons for *mišvot* that make *mišvot* seem pointless nowadays, yet clearly felt they must be observed. Moreover, RaMBa"m freely acknowledges the distinction between *ḥok* and *mishpat*, despite giving "this-worldly" reasons for *ḥukim*.

R. Mendel Blachman suggested the following support for this thesis. RaMBa"m (3:31) cites the following verse to support his pursuit of *ta'ame ha-mišvot*:

#### דברים ד

וְשִׁמְרוּתָם וְעִשְׂתֶּם בִּי הוּא חֻמַּתְכֶם וּבְיַנְתְּכֶם לְעֵינֵי הָעַמִּים אֲשֶׁר יִשְׁמְעוּן אֶת כָּל הַחֻקִּים הָאֵלֶּה וְאָמְרוּ רַק עִם חֻכְם וּבְבוֹן הַגּוֹי הַגָּדוֹל הַזֶּה.

*Observe them faithfully, for that will be proof of your wisdom and discernment to other peoples, who on hearing of all these ḥukim will say, "Surely, that great nation is a wise and discerning people."*

1 Improvements in the ways people live with each other, such as economic, political, and moral wellbeing.

2 Allowing the general population to acquire correct opinions.

3 R. Yiṣḥak son of R. Moshe Arama served as rabbi and rosh yeshiva in several cities throughout Spain. As a response to Christian sermons, which the Jews of Spain were forced to attend, he delivered his own lectures on Jewish thought. He later collected these sermons in a book, entitled *Akedat Yiṣḥak*, which follows the order of the weekly Torah portion.

4 RaMBa"m notes that *Ḥazal* (*Berakhot* 34b) allude to this point when they claim that even the prophets could only conceive of the messianic era, but *olam ha-ba* is completely unimaginable

5 In his introductions to *Qedoshim* and *Tahorot* RaMBa"m laments that even scholars are ignorant in the laws of sacrifices and ritual purity which contain great wisdom.

6 Thus, even though RaMBa"m explains the purpose of sacrifices in the *Moreh*, in *Hilkhot Me'ila* RaMBa"m writes that *Qorbanot* are *ḥukim*. RaMBa"m may allude to this distinction in *Hilkhot Me'ila* where he writes:

ובמשפטים, הן המצוות שטעמן גלוי, וטובת עשייתן בעולם הזה ידועה, כגון איסור גזל ושפיכות דמים וכבוד אב ואם

RaMBa"m alludes to two reasons for a *mišva*, its reason (*ta'am*) and its value in this world.

7 With this *Akedat Yiṣḥak* explains how Shelomo HaMelekh was unable to understand the reason for *parah adumah* (*Bemidbar Rabba* 19:3) while *Ḥazal* (*Bamidbar Rabba* 19:8) and *Rishonim* offer reasons. The answer is that the reasons offered are this-worldly rationales for a *mišva* whose primary reason is other-worldly.

8 עקידת יצחק במדבר שער עט (פרשת חקת)

אמנם הענין הראשון הוא בשנקבל שענין פרה אדומה הוא עמוק עמוק מי ימצאו כי עצור עצה ר' הכח השכלי לרדת לסוף כוונתו בשום צד הקש או פוש כמו שאמר החכם עליו אמרתי אחכמה והיא רחוקה ממני (קהלת ז') אבל שהיתה הכוונה האלהית בזה נכונה מאד להודיע בהעלם זה וכיצא העלמים רבים אשר אתנו אשר א"א זולתם לפי טבענו והידיעה באמת מציאותם היא מחוייבת אל ההצלחה וזה שאין ספק שהתורה האלהית מיעדת בשכר מצותיה וחקותיה נחלת שתי העולמים כמו שאמר ויצונו ה' לעשות את כל החוקים האלה ליראה את ה' אלהינו לטוב לנו כל הימים לחיותינו כהיום הזה (דברים ו') כאשר פירש הרב המורה ז"ל וכמו שנתבאר זו בפרשת הברית שער ע' והנה לא ימלט משהיו קצת המצוות המיוחדות להצלחת העולם הבא וקצתם להצלחת העולם הזה או שיהיו לכל אחת מהמצוות שתי התכליות. ואחר שהענין הראשון לא נתבאר בתורה אבל מצינו במצות הקלות ייעוד ההצלחה הנצחית כמו שהוא בשלוח הקן שנאמר בה למען ייטב לך והארכת ימים (שם כ"ב) כמו שאמר חז"ל (חולין קמ"ב א) וכן במצות כבוד אב ואם עם היותה מצוה אנושית מפורסמת ודומיהם וכמה פעמים אמרו רז"ל היא זכיר במצוה קלה כמצוה חמורה שאין יודע מתן שכרן של מצוות (אבות פ"ב). הנה חייב שימצאו שתי התכליות בכל אחת מהנה וכבר נתבאר בפרשת מתן תורה כי על שני הענינים אמר נעשה וששמע (שמות כ"ד). ענין שם והנה מזה יתחייב שימצאו בכל אחת מכל מצוות ה' שני טעמים מתחלפים האחד במה שתכונן ההישיר אל החיים האנושיים הזמניים על צד היותן נאות שאיפשר. והשני מצד שתכונן להשאיר אותנו בהן אחרינו בדברי רחמי נצחית. והנה בבחינה הראשונה כבר איפשר לנו לבקש טעם לכל מצוה ולמצוא דברי חפצה כי כמו שהתכלית עצמו הוא דבר ידוע ומושג לנו כן נוכל לדעת איך יביא המביא אותנו אליו ולא עוד אלא שהיא עצה טובה וכוונה רצויה לדרוש ולתור טעמים בזה כי כל עוד שישכיל האדם בטעם הדבר וטובתו יתיישר מאד להשגת תכליתו כמו שהשתדל הרב המורה בנתינת טעמי המצוות כלן על זה האופן בחלק שלישי מספר המורה. והנה על זה אמר החכם פלס מעגל גלגל וכל דרכך יכונן (משלי ד') ועל זה האופן השתדלנו בכל מה שבא ממלאכת המשכן וכליו ובגדי כהונה הכל הענינים הנלוים אליהם כמו שנתבאר במקומות

וזה שאין ספק שהתורה האלהית מיעדת בשכר מצותיה וחקותיה נחלת שתי העולמים כמו שאמר ויצונו ה' לעשות את כל החוקים האלה ליראה את ה' אלהינו לטוב לנו כל הימים לחיותינו כהיום הזה (דברים ו') כאשר פירש הרב המורה ז"ל וכמו שנתבאר זו בפרשת הברית שער ע' והנה לא ימלט משהיו קצת המצוות המיוחדות להצלחת העולם הבא וקצתם להצלחת העולם הזה או שיהיו לכל אחת מהמצוות שתי התכליות. ואחר שהענין הראשון לא נתבאר בתורה אבל מצינו במצות הקלות ייעוד ההצלחה הנצחית כמו שהוא בשלוח הקן שנאמר בה למען ייטב לך והארכת ימים (שם כ"ב) כמו שאמר חז"ל (חולין קמ"ב א) וכן במצות כבוד אב ואם עם היותה מצוה אנושית מפורסמת ודומיהם וכמה פעמים אמרו רז"ל היא זכיר במצוה קלה כמצוה חמורה שאין יודע מתן שכרן של מצוות (אבות פ"ב). הנה חייב שימצאו שתי התכליות בכל אחת מהנה וכבר נתבאר בפרשת מתן תורה כי על שני הענינים אמר נעשה וששמע (שמות כ"ד). ענין שם והנה מזה יתחייב שימצאו בכל אחת מכל מצוות ה' שני טעמים מתחלפים האחד במה שתכונן ההישיר אל החיים האנושיים הזמניים על צד היותן נאות שאיפשר. והשני מצד שתכונן להשאיר אותנו בהן אחרינו בדברי רחמי נצחית. והנה בבחינה הראשונה כבר איפשר לנו לבקש טעם לכל מצוה ולמצוא דברי חפצה כי כמו שהתכלית עצמו הוא דבר ידוע ומושג לנו כן נוכל לדעת איך יביא המביא אותנו אליו ולא עוד אלא שהיא עצה טובה וכוונה רצויה לדרוש ולתור טעמים בזה כי כל עוד שישכיל האדם בטעם הדבר וטובתו יתיישר מאד להשגת תכליתו כמו שהשתדל הרב המורה בנתינת טעמי המצוות כלן על זה האופן בחלק שלישי מספר המורה. והנה על זה אמר החכם פלס מעגל גלגל וכל דרכך יכונן (משלי ד') ועל זה האופן השתדלנו בכל מה שבא ממלאכת המשכן וכליו ובגדי כהונה הכל הענינים הנלוים אליהם כמו שנתבאר במקומות

אמנם בבחינה השנית כאשר היה התכלית הנפלא הוא נמנע ממנו ציור אמתת מהותו כמו שאמר הנביא עין לא ראתה אלהים זולתך יעשה למחבה לו (ישעי"ו ט"ד) והחושב חלוף זה הוא אצלו רעיון רוח או סכלות גמורה כמו שיקרה לסומא שלא ראה מאורות מימיו וידמה בלבו שיש לו ציור ובחינה אצל המראות שזה יהיה לו עוורון גדול מהראשון שהראשון הוא בעיניו והשני בשכלו

RaMba"m points out that this verse highlights that the nations will discern our wisdom not just due to our observance of *mishpatim* but even through our observance of *ḥukim*. This presumes, as RaMba"m notes, that there must be wisdom which is humanly apprehensible in *ḥukim*. RaMba"m seeks to demonstrate this wisdom in the *Moreh*. Of course, there are deeper reasons, but the goal in the *Moreh* is to present reasons that can be rationally understood such that our fulfillment of the *mišvot* will cause those who see us to declare that we are a wise and discerning nation<sup>9</sup>. Put differently, RaMba"m extrapolates from the above verse that there are this-worldly benefits to the observance of all *mišvot* justifying his enterprise of pointing them all out.

Dr. Josef Stern<sup>10</sup> suggests a similar approach to *ta'ame ha-mišvot*. To appreciate it, it is helpful to turn to the introduction to the *Moreh* where RaMba"m considers two ways in which the parables of the prophets can be interpreted.

Their **external** meaning contains wisdom that is useful in many respects, among which is the welfare of human societies, as is shown by the external meaning of Mishlei and of similar sayings. Their **internal** meaning, on the other hand, contains wisdom that is useful for beliefs concerned with the truth as it is.

The same can be said concerning *mišvot*. Each *mišva* has (1) its external value, the way in which it is useful in this world, and (2) its internal meaning, the way in which it engenders eternity.<sup>11</sup>

RaMba"m's lengthy discussion of *ta'ame ha-mišvot* is merely the account of the external value of *mišvot*, the manner in which they promote social, moral, and intellectual wellbeing. Thus, while RaMba"m's elaboration on *ta'ame ha-mišvot* is extensive, it is incomplete. The other half of the explanation for *mišvot* appears in the final chapters of the work (3:51-2) when RaMba"m returns to the topic of *ta'ame ha-mišvot* and makes a critical point, one that does not appear consistent

with his explanations of *mišvot* in 3:25-49. He writes in 3:51: All the practices of the worship, such as reading the Torah, prayer, and the performance of the other commandments, have only the end of training you to occupy yourself with His commandments, may He be exalted, rather than with matters pertaining to this world.

According to RaMba"m the purpose of all *mišvot* is to help a person focus on God. What value is there in diverting your attention from this world and focusing your attention on God? RaMba"m makes clear that this is to prepare a person for *olam ha-ba*. Thus, aside from *mišvot* being a means to worldly welfare, they are also a tool used to create a constant, other-worldly, transcendent consciousness allowing for the perfection needed to enjoy eternity<sup>12</sup>. Thus, even if *mišvot* no longer serve their intended worldly goal, they possess another level of meaning.<sup>13</sup>

Each evening before Shema we declare:

*With everlasting love, You have loved your people.  
Torah and mišvot, ḥukim and mishpatim, you have taught us.*

*Therefore, Hashem our God, when we lie down and when we arise, we speak of your ḥukim and eternally rejoice in your Torah and mišvot, for they are our life and the length of our days, and upon them we contemplate day and night.*

*Mišvot* are our life. When God wished to bestow merit upon the Jewish people, He gave them lots and lots of *mišvot* (Makkot 23b, RaMba"m commentary to Mishna). The notion of *mišvot* defines Judaism and differentiates it from other religions.

Whether or not one accepts the above interpretation of RaMba"m's intent, RaMba"m forces us to look deeper; as always, he brings us to a deeper understanding of the profundity and relevance of Torah and *mišvot*.

9 ספר מורה הנבוכים חלק ג פרק לא

מבני אדם אנשים שיכבד עליהם נתינת סבה למצוה מן המצוות, והטוב אצלם שלא יושכל למצוה ולאזהרה ענין כלל, ואשר יביאם אל זה הוא חלי שימצאוהו בנפשם לא יוכלו להגות בו ולא ידעו לומר אותה, והוא, שהם יחשבו שאם יהיו אלו התורות מועילות בזה המציאות ומפני כך נצטוו בהם, יהיו כאלו באו ממשכות והשתכלות בעל שכל, אמנם כאשר יהיה דבר שלא יושכל לו ענין כלל ולא יביא לתועלת, יהיה בלא ספק מאת השם כי לא יביא מחשבת אדם לדבר מזה, כאילו אלו חלושי הדעת היה האדם אצלם יותר שלם מעושהו, כי האדם הוא אשר יאמר ויעשה מה שמביא לתכלית אחת, והשם לא יעשה כן אבל יצונו לעשות מה שלא יועילנו עשותו ויזהירנו מעשות מה שלא יזיקנו עשותו, חלילה לו חלילה, אבל הענין בהפך זה, והכונה כלה להועילנהו כמו שביארנו מאמרו לטוב לנו כל הימים לחיותנו כהיום הזה, ואמר אשר ישמעון את כל החקים האלה ואמרו רק עם חכם ונבון הגוי הגדול הזה, כבר באר שאפילו

מבני אדם אנשים שיכבד עליהם נתינת סבה למצוה מן המצוות, והטוב אצלם שלא יושכל למצוה ולאזהרה ענין כלל, ואשר יביאם אל זה הוא חלי שימצאוהו בנפשם לא יוכלו להגות בו ולא ידעו לומר אותה, והוא, שהם יחשבו שאם יהיו אלו התורות מועילות בזה המציאות ומפני כך נצטוו בהם, יהיו כאלו באו ממשכות והשתכלות בעל שכל, אמנם כאשר יהיה דבר שלא יושכל לו ענין כלל ולא יביא לתועלת, יהיה בלא ספק מאת השם כי לא יביא מחשבת אדם לדבר מזה, כאילו אלו חלושי הדעת היה האדם אצלם יותר שלם מעושהו, כי האדם הוא אשר יאמר ויעשה מה שמביא לתכלית אחת, והשם לא יעשה כן אבל יצונו לעשות מה שלא יועילנו עשותו ויזהירנו מעשות מה שלא יזיקנו עשותו, חלילה לו חלילה, אבל הענין בהפך זה, והכונה כלה להועילנהו כמו שביארנו מאמרו לטוב לנו כל הימים לחיותנו כהיום הזה, ואמר אשר ישמעון את כל החקים האלה ואמרו רק עם חכם ונבון הגוי הגדול הזה, כבר באר שאפילו החוקים כלם יורו אל כל הגוים שהם בחכמה ובתבונה, ואם יהיה ענין שלא ידע לו סבה ולא יביא לתועלת ולא ידחה נזק, למה יאמר במאמינו או בעושהו שהוא חכם ונבון וגדול המעלה ויפלאו מזה האומות, אבל הענין כמו שזכרנו בלא ספק, והוא שכל מצוה מאלו התרי"ג מצוות, היא, אם לנתינת דעת אמת, או להסיר דעת רע, או לנתינת סדר ישר, או להסיר עול, או להתלמד במדות טובות, או להזהיר ממדות רעות, הכל נתלה בשלשה דברים, בדעות, ובמדות, ובמעשה ההנהגה המדינית, ואשר חייב שלא נמנה המאמרים, כי המאמרים אשר זרזה התורה לאומרו או להזהיר מהם, מהם מה שהוא מכלל המעשים המדיניים, ומהם ללמד דעת אמת, ומהן ללמד מדות, ומפני זה הספיק לנו אלו השלשה ענינים בנתינת סבה בכל מצוה מן המצוות

10 Problems and Parables of Law: Maimonides and Nahmanides on Reasons for the Commandments (ta'ame ha-mišvot) (Albany, NY: SUNY Press, 1998).

11 Stern, Problems and Parables of Law, 70-75.

12 I would like to thank Ari Pruzansky who brought this perspective to my attention. The above presentation of Stern's view is partially adopted from his excellent unpublished paper "Contingent Law and Antinomianism in Maimonides."

13 Stern goes even further (though I don't know why this is necessary) and suggests that the eternal value of the *mišva* is actually enhanced when the this-worldly purpose becomes obsolete, since man is called upon to "exploit [the *mišvot*'s] present obsolescence by employing them as other-worldly training" (47). In his words: The perfected agent should exploit the commandment's very pointlessness (relative to his state of intellectual perfection) to make them a form of "training" to occupy oneself with God rather than with matters of this world, that is, rather than with matters that lead to one's actual well-being or happiness that do give a point to every other (rational) act we perform. (6)

# UNDERSTANDING THE PLACE OF POST-MOSAIC SCRIPTURE

BY ZEV GRANIK

To kick off his shi'ur to The Habor on the canonicity of the Scriptures<sup>1</sup>, Rabbi Yosef Zarnighian tells a joke about an authentic prophet of God whose book is rejected by the publishers because it is "just not what they are looking for." This highlights the skeptical and often seemingly irreverent attitude our Sages took toward additions to the books of Na"KH, the post-Mosaic Scriptures. The Talmud records lengthy debates over even some of our most cherished Biblical books.

The notion of adding to the Scriptures is not as obvious as one might think. As R' Adda Bar R' Hanina said, "Had Israel not sinned they would have only been given the Torah Scroll and the Book of Joshua [which describes their eternal tribal allotments]."<sup>2</sup>

Everything else would have been redundant, since their whole purpose is to describe the history of our failings, and to give rebuke on how to avoid them. The question then becomes, what distinguishes "canonical" books of rebuke from "non-canonical" ones? If the words of these books really do point out our flaws accurately, then they should be heeded, just as any wise book should be. As Ben Zoma said,

"Who is wise? One who learns from everyone."<sup>3</sup> What is the relevance of this distinct category of *Kitbei Haqodesh, Scripture*? This is not a purely conceptual question. There are also certain legal ramifications of a text having this status. For one, touching them will render one's hands ritually impure.<sup>4</sup> This is a Rabbinic injunction, the reason for which is another discussion.<sup>5</sup> The question remains: what is so special about these books?

The RITB"A addresses this issue<sup>6</sup>, explaining that a "canonical" work is one which is fixed or established. It is a binding precedent with which all Jews must contend. One cannot, while still being a faithful member of *Am Yisrael*, simply reject something said by Jeremiah or King David. This is not to say one has to abandon their own moral compass or intellect. All questions are welcome, and must be addressed with honesty and an open mind. But these texts are an integral part of our tradition, and cannot be ignored.

This prized place in our tradition, as well as the accompanying legal status, is not granted to just any work. There are numerous texts describing debates and deliberations of the National High Court, the *Sanhedrin*,



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1 You can find this shi'ur on YouTube at: [https://www.youtube.com/watch?v=NhQqvqWYG\\_s](https://www.youtube.com/watch?v=NhQqvqWYG_s)

2 Nedarim 22b

3 Pirqei Abot 4:1

4 Mishne Tora, Hilkhos She'ar Abot Hatuma 9:5

5 ibid. See also Hakhm Jose Faur's discussion in Chapter 5 of Horizontal Society

6 RITB"A, Commentary on Baba Batra 98b

as to which books should be included.<sup>7</sup> As was the case with Proverbs, Song of Songs, and Ecclesiastes, books can be excluded from the canon and put to one side, only to be brought back at some later date.<sup>8</sup> This indicates that it is up to the discretion of the *Sanhedrin* what is and is not in the canon.

There are however certain qualifications a work must meet to be admitted. For one, it must contain some form of "*Nebuah*" or "*Ruah Haqodesh*."<sup>9</sup> The first of these terms refers to knowledge attained through a specific prophetic state, namely a visionary trance or dream.<sup>10</sup> This group makes up the "Prophets" section of the Scriptures.<sup>11</sup> To establish a work as authentically prophetic, it must be written by a prophet who has already been validated by the Sanhedrin, and it must contain direct prophetic quotes, such as are preceded by "So says God," or contain an indication of super-human knowledge.<sup>12</sup>

The next term, "*Ruah Haqodesh*" characterizes those works which comprise the "Writings" section of the Scriptures. It is a state of wakefulness in which God assists the author of a work in writing words of wisdom and truth. This is the state experienced by the priests when reading a message from the *Urim V'Tumim*<sup>13</sup>, which is done in the *Qodesh Chamber* of the Temple. "*Ruah Haqodesh*," then refers to the force which emanates from the Qodesh, and provides insight and edification about God's Will. This area, near the Ark of the Covenant, is also where the Scriptures were housed by the priests and sages, functioning in an official capacity as the foundational documents of our tradition. For this reason, all of Scripture is termed "*Kitbei Haqodesh*," the writings of the Qodesh. Ecclesiastes was taken out of the canon for a short time because it was thought that it did not have this sacred quality. It was later reintroduced after much deliberation.

Another reason Ecclesiastes was almost put on the chopping block was because of its apparent internal inconsistencies. For instance, it says "sorrow is better than laughter,"<sup>14</sup> but it also says "to laughter I say 'you are praiseworthy.'"<sup>15</sup> Canonical works must be intelligible to even the lay reader if they are to function as national instruction. Even schoolchildren must be

able to comprehend the Scriptures. As they exited the schoolhouse, they would often be quizzed about the verses they had learned that day.<sup>16</sup> Internal contradiction would produce too much confusion.

In addition to having these qualities, the work also must be in consonance with the Torah. Even a prophet who claims to be sent from God cannot go against Moses' teachings.<sup>17</sup> The job of the prophet is to provide ethical and spiritual guidance for the people in their endeavor to uphold their covenant with God. This goes for any book which forms the foundation of our tradition. It was for this reason that the Book of Ezekiel was almost removed from the canon. Many of the laws, such as those pertaining to the marriages of priests, do not seem to conform to the Torah's injunctions. Also, the Temple dimensions it describes do not seem to fit Solomon's Temple or Moses' Tabernacle. In addition, he claims the reason God took us out of Egypt was so that God would not appear too harsh, while the Book of Exodus explains that it was done out of God's mercy for our suffering. It was only when these seeming discrepancies were resolved that the book was admitted into the canon.<sup>18</sup>

Another example of this kind of discrepancy is found in Ecclesiastes, which says "Rejoice, youngster in your youth."<sup>19</sup> This seems to contradict Moses' dictum, "Do not follow after your heart and your eyes."<sup>20</sup> On top of this, Ecclesiastes contains statements which go against established orthodox belief. It says "What is the benefit of all a person's toil that he toils under the sun?" This seems to contradict the basic Torah concept that our lives are full of meaning and purpose. This would put it squarely in the category of "*Sifrei HaMinut*," which emphatically do not "defile the hands,"<sup>21</sup> that is, they cannot be part of the canon. "*Sifrei HaMinut*" are those heretical works which go according to their own reasoning and speculation, without taking into account the precedent of tradition.<sup>22</sup> Again, it was only when the Sages uncovered a reading of these verses which aligned with the Torah and tradition that the book was fully embraced as a beloved member of the canon. This is in fact another important factor in a book's canonicity: its adoration and acceptance by the entire nation of Israel.<sup>23</sup>

7 Tosefta Yadayim 2:13,14, Mishna Yadayim 3:5, 4:5

8 Abot D'Ribbi Natan 1:4

9 Tosefta Yadayim 2:14

10 Numbers 12:6. Mishne Tora Hilkhos Yesode HaTora 7:3

11 Guide For the Perplexed 2:45. R' David Qimhi, Introduction to Psalms Commentary

12 Se'adya Gaon, Sefer Hagiluy

13 Guide for the Perplexed 2:45. R' David Qimhi, Introduction to Psalms Commentary

14 Ecclesiastes 7:3

15 Ecclesiastes 2:2

16 Shabbat 30b

17 Deuteronomy 13:1-6. Mishne Tora Hilkhos Yesode HaTora 9:1

18 Shabbat 13b. Mishne Tora Hilkhos Maase Haqorbanot 2:14

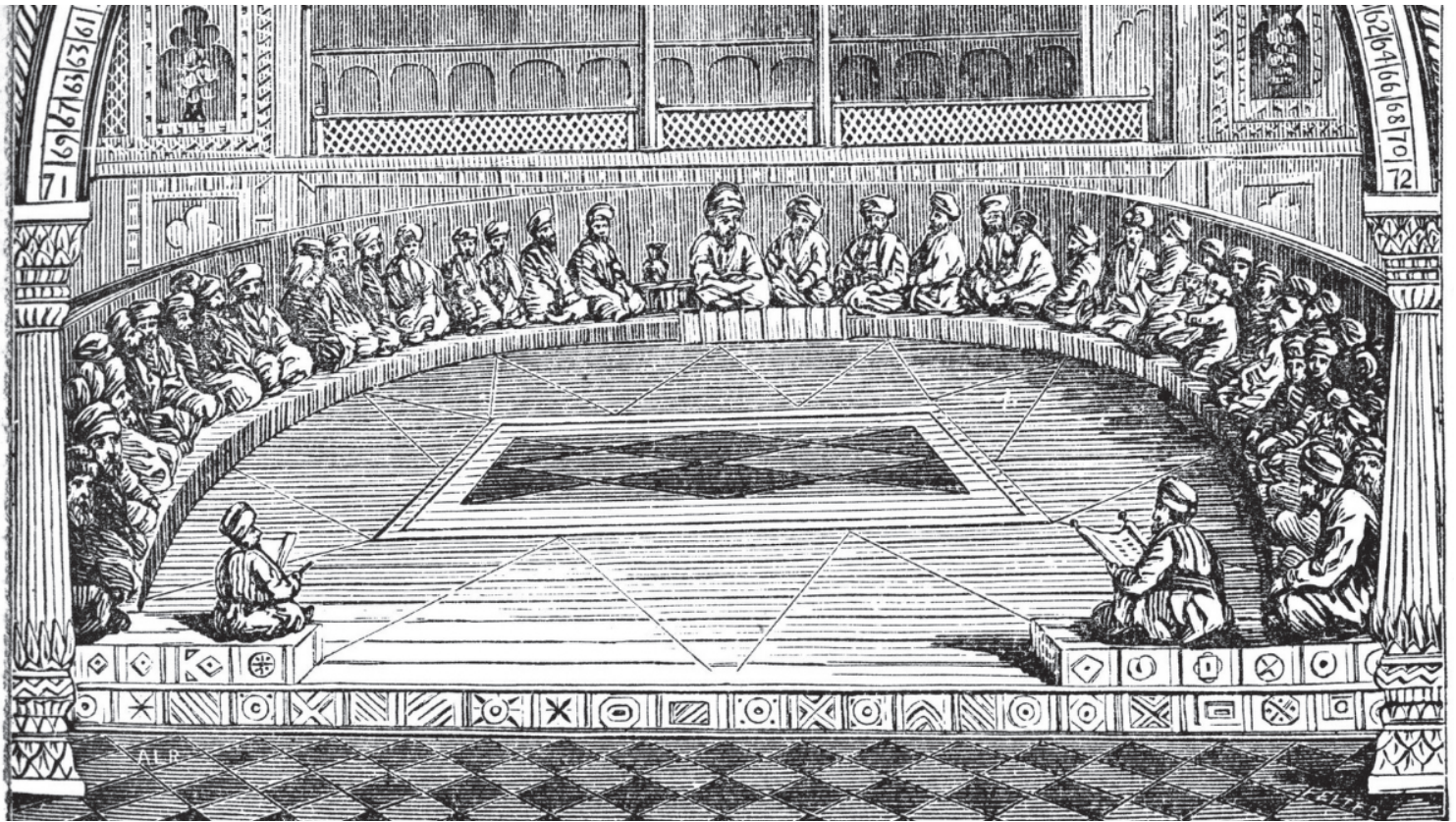
19 Ecclesiastes 11:9

20 Numbers 15:39

21 Tosefta Yadayim 2:13

22 R' Abraham Abulafia, Yad Rama, Commentary on Sanhedrin 110b

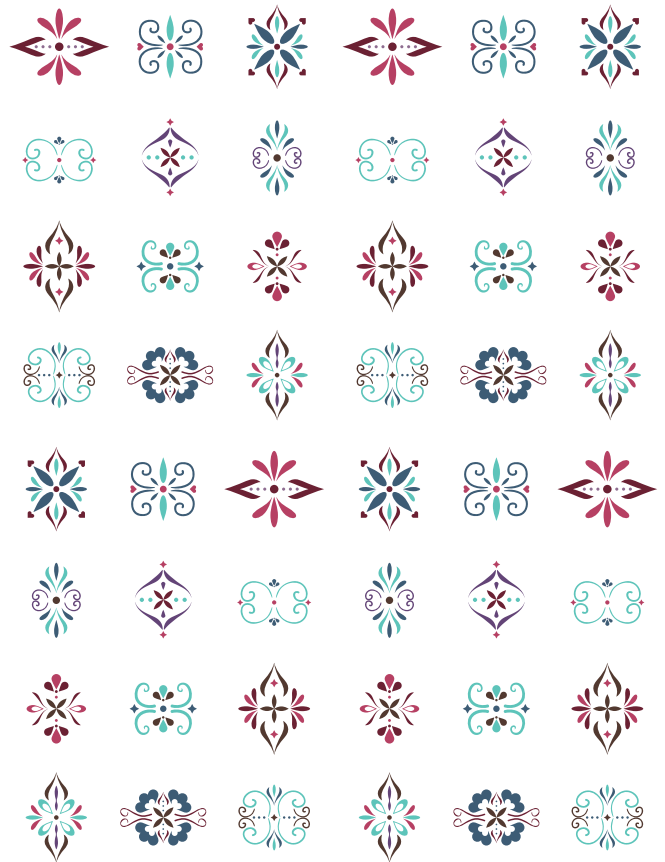
23 Se'adya Gaon, Sefer HaGiluy



There are many works which are loved and revered by our people, and yet are also not considered canonical. Far from being banned, these works are often used and praised by our Sages. Ben Sira, for instance, is quoted positively by the Talmud as a source of instruction.<sup>24</sup> There is the lone opinion of the Talmudic sage R' Yosef who forbids reading Ben Sira, but this opinion is ultimately rejected because of the book's wisdom.<sup>25</sup>

There is also the Book of Maccabees, which is not read much, but can still function as a source of inspiration and historical information. There is also a now little-known book called *The Scroll of Antiochus*, which is said to have been written by Matityahu the Hasmonean of the *Ḥanukah* rebellion, and later redacted in the days of the Mishna.<sup>26</sup> R' Yosef Qafih records the custom in Sana'a, Yemen to read this work to the young children in the original Aramaic, along with Se'adya Gaon's Arabic translation, while the *Ḥanukah* candles were lit.<sup>27</sup> It was even the custom, as far back as 12th-century Italy, to recite this text publicly in the synagogue without a blessing.<sup>28</sup> This indicates an acknowledgement of the text's non-canonical status, but also a great love and reverence for it. The reason these texts were not included in the canon is not because of any internal problem, but simply because they were written too late. For this reason, it could be that they are considered not to

contain prophecy,<sup>29</sup> as they are written after the age of prophecy, or their addition to the canon was considered redundant and unnecessary.<sup>30</sup>



24 Jerusalem Talmud Berakhot 7:2. Babylonian Talmud Baba Batra 98b, Baba Kama 92b

25 Sanhedrin 100b

26 Se'adya Gaon, Sefer HaGiluy

27 R' Yosef Qafih, Halikhot Teman pg. 38

28 R' Yishayah Mitrani

29 Seder Olam Rabah 30

30 See Ch. 1 of Yosef Hayim Yerushalmi's "Zakhor: Jewish History and Jewish Memory". He outlines the revolutionary Biblical idea of gleaning theology from history, an activity which was seen as largely concluded with the establishment of the Second Temple after the return of the exiles from the Babylonian captivity. All subsequent national events were to be interpreted in light of the theology gleaned from these earlier events.



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# EXPLORING ISRAEL AND HUMANITY WITH RABBI BENAMOZEGH

BY **RABBANIT REBECCA ABRAHAMSON**

**W**e are surrounded by division, tension, differences, *maḥlokot*. Conflicts are everywhere, some seem to appear out of nowhere, others appear entrenched, while still others fade only to be replaced by new *maḥlokot* that we are unprepared for.

The Torah itself begins with division - *"In the beginning God created the Heavens and the Earth."* Confronted with a description of the creation of vast differences, what could be more in contrast than the lofty heavens and the lowly earth? How do we deal with the many conflicts that surround us?

We have in our tradition a rabbi of note who devoted his life to bridging major societal gaps, and bequeathed to us intellectual frameworks which we can use in this pursuit - Rabbi Eliyahu Benamozegh.

Rabbi Eliyahu Benamozegh (1822 – 1900) was born in Fez, Morocco and became rabbi of Livorno, Italy. He studied the major religions, Kabbalah, the Greek philosophers, biblical criticism, Darwinism, and historians both ancient and contemporary, finding affinities among various systems of thought, all of which, he declared, ultimately arise from divine precepts and share underlying roots.

To this end he produced an unparalleled magnum opus, *Israel and Humanity*, with approbations from as broad a range of people as the chief rabbi of France Alfred Levy, Christian minister Hyacinthe Loyson, and his student in Noahism, Aime Palliere. On the very first page the Rab describes

the threefold crisis of his era: the conflicts between religion and secular study, conflicts between different religions, and conflicts within each religion.

Each conflict is approached with the same basic principle - recognising that there exists underlying unity between religion and science, between religions, and within religions.

He begins with the goal of harmony between religions, which would be attained via robust interfaith dialogue and honest, respectful confrontation. We may expect that he would introduce examples of such dialogue in *Israel and Humanity* with obvious similarities between the Abrahamic faiths, building up slowly to areas of disagreement, instead, on the very first page he presents the following challenge - a defense of the universality of the Talmud. He so to speak lets our exclusive sacred writ loose on humanity, brandishing a controversial subject at the very start. In buttressing this claim, the Rab goes so far as to declare that tradition preceded scripture. He offers a proof, *"The Exodus tells us about God-fearing servants of Pharaoh who believed Moses' predictions and sheltered their servants and their flocks during the 10 plagues,"*<sup>1</sup> thereby showing that belief in one God and His involvement in our lives preceded the revelation at Sinai.

The Rab notes the influence of oral tradition in verses of the New Testament that indicate an awareness of Noahide teachings, these teachings are not stated explicitly in scripture, but in the Oral Tradition.<sup>2</sup>

<sup>1</sup> Introduction, page 80

<sup>2</sup> (there are in) "two passages of the book of Acts (15:19-20, 21:25), a weak trace of the true Hebrew system through all the discussions and religious divisions of this time."

The Talmud is preserved and studied only in the Jewish faith, and in that sense is exclusive because no other religion studies Talmud, but it has influenced others, discusses the civil rights of non-Jews in the land of Israel, and so does not deal exclusively with Jews - thus he presents a challenge both to those who dismiss the Talmud completely and to any who see it as totally exclusive.<sup>3</sup>

This is but a small taste of Benamozegh's forthrightness. Interfaith dialogue must be robust and intellectually honest, yet this does not contradict love for humanity, indeed, the Rab regarded Christianity highly, crediting it with transcending national boundaries, in stark contrast to the ancient polytheistic religions which were wholly exclusive, with gods of nations, tendencies, even gods of levels of health and illness, Christianity transcended these ancient polytheist divisions. The Rab was delighted when his morning prayers coincided with the matins of the local church bells, feeling unity with other worshipers. He said that if Christianity consents to reform itself towards Noahism, (questioning the Trinity, deification of a prophet, exclusive salvation, and replacement theology) it will be a true religion of the Gentiles.

Rabbi Benamozegh mentions Noahism over 400 times in his 800 some page Israel and Humanity. For him Noahism is the ultimate gap that bridges between all monotheistic faiths. It is the touchstone of true religion and a just society, the first and universal religion, and will be embraced by all in the Messianic age. The mandate of the Jewish people is to communicate Noah's seven laws to the nations of the world, thus Rabbinic Judaism bears a dual nature, it is a religion both particularistic and universal, with the Mosaic commandments particular to the Jewish people, and the Noahide laws, testimony to Judaism's universal nature.<sup>4,5,6,7</sup>

These laws are:

1. Monotheism – Belief in one God;
2. Respect and revere the Almighty – Do not blaspheme;
3. Protect life – Do not kill;
4. Protect the family – Morality;
5. Protect possessions – Do not steal;
6. Protect the natural world – Do not detach a limb from a living animal. The ban on tree grafting is used as an allegory to symbolise the protection of crops;
7. Social justice – Establishment of courts.

The Rab in effect pleads on several fronts - Jews should recognise their mandate as light unto the nations vis a vis sharing the Noahide covenant, others should thus view Judaism as indeed universalist, and Christians should

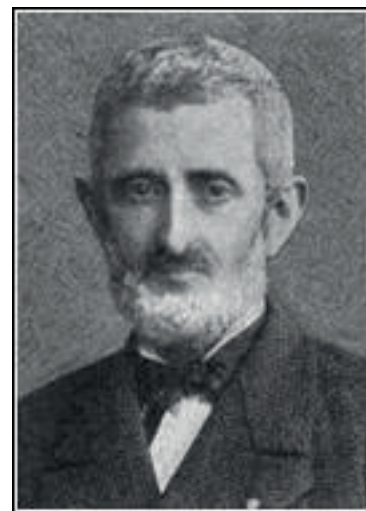
broaden their view of exclusive salvation in light of Noahism. It should be noted that in Islam, acceptance of other monotheists comes with greater ease than in the Christianity that the Rab spent much of his time addressing.

With the conflicts between religions given an intellectual framework for conciliation, the Rab moves to the conflicts between religion and secular study. Interdisciplinary scholarship, a willingness to allegorise scripture, and the courage to question claims of secular scholarship would be employed to compare similarities and contrast differences in harmonizing the claims of science and religion.

He notes that both Darwinism and the biblical narrative of Creation are similar in the claim of descent from one primordial form<sup>8</sup>. He contrasts, however, evolution and the rabbinic view of humanity - both involve improvement, but evolution involves improvement via natural selection, whereas the rabbinic concept of improvement of humanity involves free choice and the performance of divine precepts.<sup>9</sup>

Historical and archaeological discoveries that seem to make revelation lose its luster were no threat to the Rab. For example, he stated that biblical criticism and archaeological discoveries which point to similarities between the narratives of the Pentateuch and other ancient civilisations are used by secularists to say that Judaism derived from other civilizations. Benamozegh states the contrary - similarities actually prove Judaism's influence on others.

For example, the ancient Egyptian high priests practiced circumcision and monotheism, Benamozegh views this as proof of the influence that our forebears Abraham and Sarah, Isaac and Ribka, had in their sojourns to Egypt. Benamozegh states that when Moses preached the promise of God's deliverance from bondage to the children of Israel, he was reminding them of the One God, not innovating, that is, monotheism is not a concept that Moses learned from the Egyptians. Any monotheism practiced in Egypt was the exclusive realm of the priests and it was forbidden for them to share teachings with non-priests, and most definitely not with Israelites. It was also unlikely that a slave class would



3 He proves the necessity of a tradition in volume three, where he states that the silence of the Bible on the issue of the fate of the vanquished Canaanites must point to a tradition that explains such an important gap. See chapter VI book three beginning page 668 for discussion.

4 Pg 57

5 Pg 115

6 Pg 51

7 Pg 46

8 Pg 249

9 Pg 270



be enthusiastic about a teaching that stemmed from their oppressors. Likewise with circumcision - the children of Israel were reminded, not taught something new.

Thus, similarities to other religions only validate the Torah's authenticity.

And for another bridge builder - in the above discussion, the Rab notes that there are concepts that are exoteric, that is, well known in one nation, and esoteric, or exclusive to a few, in another. Monotheism and circumcision were esoteric in ancient Egypt, as they were the realm of the few Egyptian priests, and are exoteric, that is, the realm of the majority, in the Jewish community.

He states that even imagery, which is forbidden in Judaism, actually exists in an esoteric sense in our faith - the Temple hosted a statue of two joined cherubim in the holy of holies. Statuary, which is eschewed exoterically in Judaism, does exist in an esoteric sense. This is another effort at bridging gaps - we do have similarities with other faiths, it is just in an exoteric sense in one and an esoteric expression in another.

He brings more evidence that Judaism wielded influence and was not merely derivative. He notes the influence of Judaism upon ancient Rome, quoting historian Eugene Havet:

*"It is clear, that the Jews and the Judaism had considerable influence in Rome....There were everywhere... Jews of origin or by circumcision and around them worshipers of God or Judaizers who, without being circumcised and without*

*committing themselves to all mosaic practices, read the Holy Books and sent to the Temple of Jerusalem their money and their homage."*<sup>10</sup>

Another claim of secular scholars in his era was that national differences spell fragmentation that must express itself in a plethora of religions with no commonality between them. Benamozegh objects to this, noting that this claim is made regarding religion, but never about the natural sciences, declaring: "Neither in philosophy, we have said, nor even more so in science, are national differences an obstacle to unity."<sup>11</sup> He notes the irony of thinkers contemporary to him who regarded Judaism in a negative light for its apparent particularism, but then go on to insist that national differences must result in understandable religious fragmentation! This irony aside, he states that there are similarities both regarding philosophy and scientific discovery among peoples who live huge distances apart with no contact between them.<sup>12</sup> Underlying unity of all true religion is found in the Noahide laws; we are decidedly not, as some secular thinkers claimed, fragmented.

He criticised the replacement theology of Christianity as it proves to be a self-destructive intellectual framework, because if you can replace, then you can be replaced, and he applied this to secular movements contemporary to him: rationalists who create innovative social movements bear a certain cynicism, because they are aware that just as they replace previous manufactured movements, they too can be replaced. Rationalism can have no hold on the human soul, it begets frustration as innovators sense the self-detonating nature of their social invention, only to be

10 Christianity and its origins, Eugene Havet, 1884

11 Pg 74

12 Pg 315 -discusses variety among different nations, yet underlying unity, Pg 356 discusses humanity's common origin despite variety of outward appearance. Pg 596 - quotes philosophers who state the need for diversity.





Regarding friction within religions, the many streams of each Abrahamic faith are a natural expression of human diversity. Evolution within each religion is to be expected.<sup>16</sup> Indeed, the promise of a Messianic era is itself an acknowledgement of religious evolution.<sup>17</sup> In the subchapter, "The Multiple Aspects of Divine Law", book three, he quotes the Talmud on the variety of exegesis that seem to contradict but are all expressions of the Living God, referring to this a polygonism. He quotes Catholic and secular philosophers in supporting variety within religion.<sup>18</sup>

replaced down the road, and then, perhaps even vilified. The Rab thus held by the constancy of the human spirit.<sup>13</sup> Innovations are viable only if they are previously seeded by precedent. Interestingly, this dovetails with Islamic thought in its questioning of bida, or innovation without precedent.<sup>14</sup>

To summarise, Rabbi Benamozegh offers an intellectual framework that assumes an underlying unity between religions, within religions, and between religion and the claims of science, history, archeology, and biblical criticism. The particulars of the underpinning harmony differ in each area, and necessitate robust intellectual engagement.

The Rab held that our highest aspirations are rooted in scripture and tradition, and without this firm base, will wither. He stated that our highest aspirations are Law, Justice, Morality, Liberty, Heroism, Sacrifice. If the religious base is dried up, these will dissipate.<sup>15</sup>

Regarding the rationalist, the key is to explain the universal quality of the duality of Mosaism and Noahism, that pure rationalism has no deep hold on the human soul, and cannot form a firm foundation of any system. To the Christian (and I herein add Muslim) - explain Noahism, these religions need not undergo sweeping change, but only reform what is defective, and accept other monotheists in light of Noahism.

Rabbi Benamozegh was dealing with challenges that have long been forgotten in the popular mind. Many of us are unaware of the call by secularists in the late 19th century to transform the Judeo-Christian ethos by merging it with Hinduism and rationalism simultaneously, to get to a rational pantheistic monotheism. Their logic? Judaism was too particularistic to meet the needs of modern society, thus Christianity "replaced" Judaism in that it reached to a broader geographic area, but as Christianity did not succeed world-wide, advancement was needed in a synthesis of rationalism, western religions, and eastern religions.

Rabbi Eliyahu Benamozegh bequeathed to us tools for reconciliation on many fronts. Even if we cannot reach his ideal as of yet in our personal or communal lives, we can know that it exists in the face of conflicts that we encounter.

Benamozegh states that the above is not really reconciliation, but eliminating Abrahamic monotheism.

Solutions exist, and as the prophet predicted, whom the Rab loved to invoke: *"The days are coming, when the earth will be filled with the knowledge of God, like the bottom of the sea by the waves which cover it ..."* (Isaiah 11:9)

In the post-Holocaust world, sympathies were aroused for Judaism and Jewish survival, the above proposal by secular intellectuals was scrapped and forgotten. It had also become obvious that the modern world, capable of such destruction, was not totally enlightened and thus ripe for some new pantheism. Benamozegh's broad-based education enabled him to point out the flaws in that now forgotten proposal, and maintain that just as there are immutable laws of nature, there are immutable basic laws of religion that cross boundaries of nation and eras, embodied in Noahism, and that the human spirit is not up for grabs with replacement philosophies quite so easily.



13 Pg 53  
14 Pg 57, 394, 412  
15 Pg 44  
16 Pg 51, Introduction  
17 Pg. 214  
18 Pg 663



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# HOW ANCIENT IS MODERN HEBREW?

BY BEN ROTHSTEIN

**H**aRaMBa”M wrote a brief but instructive comment regarding the evolving nature of language and linguistic development. The *mishnayot* in *Terumot* use the verbal root תרם to refer to taking teruma, as for example in the phrase *חמשה לא יתרומו*<sup>1</sup>. However, this does not correspond to the grammar present in Biblical Hebrew, in which the verbal root is רומ (with a nominalising ת prefix), as for example in the phrase *אשר ירמו בני ישראל*<sup>2</sup>. This led some, such as Menahem ibn Saruq, to criticise the language of the Mishna as ungrammatical. HaRaMBa”M, in his opening comment to *Terumot*, addresses this issue. He writes that the fundamental essence of any language is the way in which it is used by its native speakers; since the *tanna'im* were living in the land of Israel, their expression of common usage dictates the grammar of the language.

Couple the above with HaRaMBa”M’s statement in the *More HaNebukhim* as to the non-essentialist status of Hebrew as *leshon haqqodesh*<sup>3</sup>, and a fascinating line of inquiry opens up: What is the status of Modern Hebrew? To what extent is Modern Hebrew based on Biblical and Rabbinic Hebrew? Does Modern Hebrew retain/attain the status of *leshon haqqodesh*, especially considering the large number of physicality-centred loan words that would seem to displace HaRaMBa”M’s criteria for the appellation of *leshon haqqodesh*? Are Israelis the current native speakers of this latest iteration of Hebrew? To answer these questions fully is beyond the scope of this article. However, I shall address one specific aspect of this issue; namely, to what extent Modern Hebrew is a direct continuation of earlier forms of the language.

In the early- to mid-20th century, with the uptake en masse of Hebrew as a spoken language once again, a view began to take hold that Hebrew had been ‘revived’ from being a ‘dead language’. This rests heavily on certain conventional ideas of what constitutes a ‘living’ language and also assumes a linguistic rigidity over 2000 years of Hebrew history. In this article, I will attempt to show that this is not the case; that there has been continuous, dynamic use of Hebrew outside of its fossilised liturgical settings, and that its usages were not reserved for only a scholarly elite. While not necessarily spoken, Hebrew still persisted in many settings, in an obviously living fashion. I will also, where possible, demonstrate Hebrew’s spoken components, in order to make the point that Hebrew never truly died out as a spoken language either. This would result in viewing current Modern Hebrew as but the latest form of the language, with the vernacular norms of its speakers constituting the new Hebrew grammar.

To begin with, it has been claimed that as early as the ‘Return to Zion’ at the beginning of the Second Temple period, Hebrew was no longer a spoken language, having been displaced by the *lingua franca* of the time, Aramaic. An early example of this argument can be found in the writings of Abraham Geiger, who claimed that the language of the Mishna was an artificial construction<sup>4</sup>. This claim however can no longer stand up to scrutiny following the considerable research into Rabbinic Hebrew. Segal, for example, has demonstrated how Mishnaic Hebrew stands independently of Aramaic, and points out that the view espoused by scholars like Geiger ‘rests... on a misconception of the whole

1 Mishna Terumot 1:1.

2 Numbers 18:19.

3 Guide for the Perplexed III:8

4 Abraham Geiger, Lehr- und Lesebuch zur Sprache der Mischnah (Breslau: F.C.C. Leuckart, 1845), Introduction.

character of MH... [which is] a record of sayings, oral teaching, and discussions of men of the people on... the manifold activities in the daily life of an organised society.<sup>5</sup> External evidence from this period also shows that the language spoken by the people at this time was Hebrew, not Aramaic. Grintz shows how many passages of the Greek compositions in the apocrypha and New Testament are only understandable in the context of native Hebrew speakers. By way of example, he quotes the clause *‘Ὁψὲ δὲ σαββάτων τῆ ἐπιφωσκούσῃ εἰς μίαν σαββάτων’* (Matthew 28:1). This appears to be contradictory, as the end of the Sabbath is not the dawn of Sunday. Grintz renders this phrase, in Hebrew, as *במוצאי שבת אור לאחד בשבת*, in which the word *אור* is used to mean ‘the night before’, as found in the Mishna<sup>6</sup>, dissolving the inherent contradiction through knowledge of proper contemporary Hebrew<sup>7</sup>. It is clear from this that Hebrew was still spoken commonly during the Second Temple period.

After the destruction of the temple and following the expulsion of Jews from Jerusalem by Hadrian in 135 C.E., thus formally beginning the diaspora, it is plausible to suggest that Hebrew would have fallen out of use as the Jews adopted the languages of the countries to which they were exiled. However, the existence and content of the literature of this time testifies to the ongoing use of Hebrew as a written, and possibly spoken language. In a passage of the Jerusalem Talmud, we find encouraging the use of Hebrew for conversation.

Additionally, in the Babylonian Talmud, an amusing story is recounted in which Rab Mattana teaches a *halakha* with the Hebrew words *מים שלנו*, meaning water that has been left overnight, and the people hearing him misinterpret this as meaning ‘our water’, and so they line up the next day to collect water from him.<sup>8</sup> Although this story seems to indicate the use of Hebrew in a spoken context, a few observations must be pointed out about these two Talmudic passages. Firstly, in the former, the statement is made by Rabbi Yoḥanan of Beit Gubrin, a location in Ancient Israel and not the diaspora. Accordingly, in his locale Hebrew may have remained in disproportionately frequent use relative to world Jewry at the time. Secondly, the term *דִּיבּוּר* is unclear, and may in fact be referring to the context of prayer rather than conversation.<sup>9</sup> With regard to the latter, it must be noted that the context in which Hebrew is used is that of repeating a *halakha* as formulated by Rav Yehuda. The Talmud is punctilious in ensuring that *halakhot* are repeated verbatim<sup>10</sup>, and so the repetition of Amoraic Hebrew in a spoken context may well be out of a desire to

maintain the legal formula as originally stated. Indeed, the misunderstanding of the audience may in fact indicate their lack of familiarity with the Hebrew in which the *halakha* was stated. Thus we see Hebrew begin to be confined in spoken contexts, but nonetheless still spoken and, largely, intelligible.

During the following Geonic period, the use of Hebrew beyond the liturgical and poetic contexts can be found primarily in correspondence and Geonic responsa:

*[M]any of the letters were intended to be read aloud to a congregation or select group. The writers took pains to produce letters that reflected favourably on their knowledge of Hebrew sources (first and foremost the Bible), their linguistic flair, and their appreciation for the literature of the day, principally poetry. They are not, however, merely literary artifices, but represent a homogenous, fluid idiom that had to convey a wide variety of information relating to the governance of scattered communities, the disputes and controversies of the day, and the economic realities facing the ge'onim as they sought to maintain their academies.<sup>11</sup>*

In the synagogue, Hebrew was understood and even spoken beyond the confines of liturgy. More than solely communicating information or demonstrating ‘linguistic flair’, some letters were clearly intended to be read to an audience who would not only understand what was written, but be moved by the eloquent presentation of the individual’s plight,<sup>12</sup> indicating that Hebrew was a *lived* language.

In the later mediaeval period, Hebrew poetry flourished and developed in the form of the *piyyuṭ*, but these were composed by an elite group in command of grammar and Midrashic knowledge, who frequently prioritised phonetic aesthetic over grammatical accuracy, and style over substance; *piyyuṭ* was a highly artificial and deliberately constructed form of Hebrew. Although this does convey a linguistic richness to Hebrew uncharacteristic of a so-called ‘dead language’, it has little bearing on whether the language was still in use in lower registers, especially as this may be indicative of the fact that the audiences would not have understood the content of the *piyyuṭim*, but simply enjoyed their recital from an aural perspective. Therefore, it would be more instructive to look instead at prosaic<sup>13</sup> compositions in Hebrew, perhaps the most striking of which is the translation of Arthurian legends into Hebrew.

5 M.H. Segal, *A Grammar of Mishnaic Hebrew* (Oxford: Clarendon Press, 1927), 6.

6 Mishna Pesahim. 1:1.

7 Jehoshua Grintz, ‘Hebrew as the Spoken and Written Language in the Last Days of the Second Temple’, *Journal of Biblical Literature*, 79, 1 (1960), 37-38.

8 Pesahim 42a.

9 Catherine Hezser, *Jewish Literacy in Roman Palestine, Texts and Studies in Ancient Judaism 81* (Tübingen: Mohr Siebeck, 2001), 250.

10 See for example Berakhot. 33b.

11 Ben Outhwaite, ‘Geonic Correspondence’ in *Encyclopedia of Hebrew Language and Linguistics*, ed. Geoffrey Khan et al. (Leiden: Brill, 2013), DOI: [http://dx.doi.org/10.1163/2212-4241\\_ehll\\_EHLL\\_COM\\_00000646](http://dx.doi.org/10.1163/2212-4241_ehll_EHLL_COM_00000646) [last accessed 12 January 2022].

12 See for example, T-S 13J13.16

13 That the following work is from a prose original and not a metrical romance is concluded by Moses Gaster, ‘The History of the Destruction of the Round Table as Told in Hebrew in the Year 1279’, *Folklore*, 20, 3 (1909), 275.

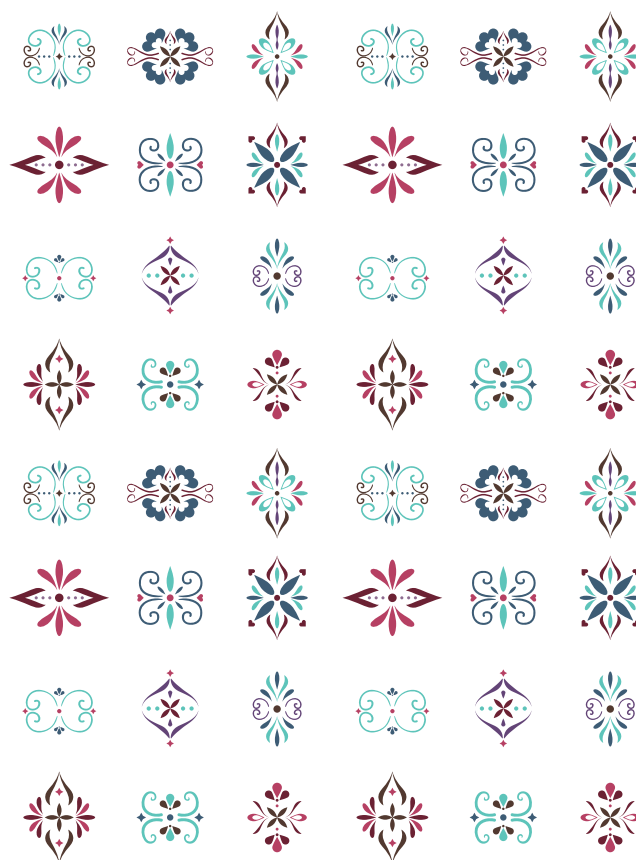
This translation of an extract of *Merlin* and a larger part of *Mort Artu* appeared in 1279; for what purpose if not for a Hebrew-reading audience? In the translator's opening apology, he writes that 'the second and most important reason for my translation was that sinners will learn the paths of repentance and bear in mind their end and will return to [God].'<sup>14</sup> The intended audience of this work is identified as the masses, the sinners, who may hear this 'popular literature' and thus repent. This is also evidenced by the way in which the domesticated, Hebraised translation moralises the events depicted. For example, the Maid of Askolot's feelings towards Lancelot are recorded as 'ותחמוד בלבבה את יפי לניץ', recalling the verse in Proverbs 6:25 'אל־תחמד יפיה בלבבך', which warns against association with harlots and married women.<sup>15</sup> It is clear that in order for the translator to undertake this task with repentance in mind, the general public must have understood Hebrew in this setting and in all likelihood were even accustomed to this form of Hebrew literature. It is worth noting that only one fragment has been preserved of this tale. Had it not been, no one would have suspected this genre of text and translation to exist. This demonstrates how little we can be sure that there were not further translations of similar works at the time; in this case, absence of evidence is most emphatically not evidence of absence.

In addition to the literature, throughout the mediaeval period, Hebrew, albeit a 'less erudite' form, 'functioned widely, for many centuries, as the "middle-brow" medium of composition, for administrative and most religious purposes,'<sup>16</sup> which reveals, at the very least, a workable level of competency and accessibility of Hebrew among the lay leaders of Jewish communities.

The next translations of classics of literature begin to appear in the late 18th century and early 19th century, but for a wholly different purpose. These include many German works, such as *Faust*, but in 1874 the first complete translation of a Shakespeare play was completed by Isaac Salkinson in Vienna. This was part of the Maskilic agenda, to create 'a modern literary culture in Hebrew including genres that had not previously existed among Ashkenazic Jewry.'<sup>17</sup> Salkinson was the first to translate directly from the original English (rather than via German), producing *Ithiel*, the Kushite of Venice. However, his translation 'gain[ed] widespread critical attention in Maskilic literary circles [emphasis mine]; and it is not clear that they were read by those out of the scholarly circles of the Maskilim. Therefore, the Hebrew literacy of this period is better gauged by the widespread consumption of Hebrew newspapers and periodicals throughout (Eastern) Europe, which shows a common understanding of Hebrew

among Jewish communities. The first of these periodicals, *HaMe'asef*, appeared in 1784 and many soon followed, continuing well into the 20th century, by which point the process of the revernacularisation of Hebrew had already begun.

In light of the abundant evidence above, demonstrating a rich and varied use of Hebrew throughout the 2000 years of Jewish diaspora by scholars and laypeople alike, continuing past the time of its revernacularisation, it is clear that Modern Hebrew did not appear in a vacuum, and instead followed off the back of large-scale use of the language. This is apart from the small pockets of Jews, mainly in Palestine, who had continued to speak Hebrew as their vernacular throughout these years.<sup>18</sup> The myth of the 'dead' language appeared originally in Europe, in the context of other 'dead' languages such as Greek and Latin, since Hebrew was 'viewed as the language of the Old Testament, while texts from other periods (such as Medieval Hebrew poetry, Ḥassidic literature and secular novels) did not exist within the paradigm of European Christian culture.'<sup>19</sup>



14 Curt Leviant, *King Artus: A Hebrew Arthurian Romance of 1279* (Assen, Netherlands: Van Gorcum, 1969), 13.

15 Ibid. 69-70.

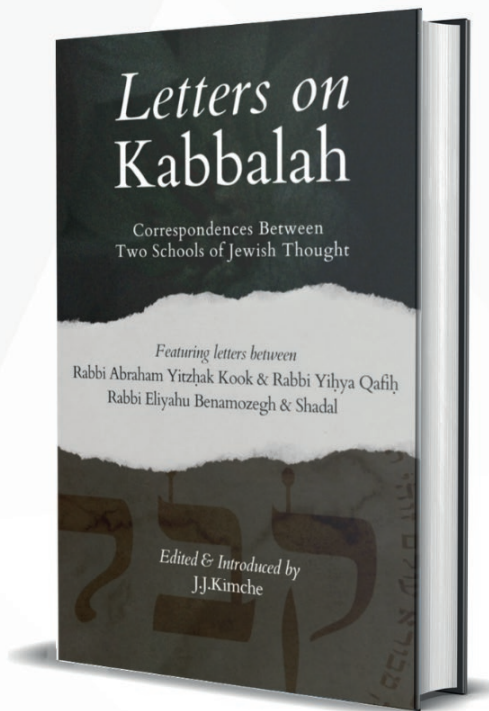
16 Lewis Glinert, 'Ashkenazi Hebrew' in *Encyclopedia of Hebrew Language and Linguistics*, ed. Geoffrey Khan et al. (Leiden: Brill, 2013), DOI: [http://dx.doi.org/10.1163/2212-4241\\_ehll\\_EHLL\\_COM\\_00000322](http://dx.doi.org/10.1163/2212-4241_ehll_EHLL_COM_00000322) [last accessed 12 January 2022].

17 Lily Kahn, *The First Hebrew Shakespeare Translations* (London: UCL Press, 2017), 1.

18 William Chomsky, *Hebrew: The Eternal Language*, (New York: JPS, 1957), 217-227.

19 Sonya Yampolskaya, 'The concept of "dead language" as exemplified by Hebrew', *Vestnik of St Petersburg University* 13, *Asian Studies, African Studies* 3 (2016), 27.

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