



TORAH MIN HA-SHAMAYIM

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Louis Rabinowitz

One of the most fundamental articles of the Jewish faith is the belief in the divine revelation of the Torah (*Torah min ha-Shamayim*). In this essay the author examines some of the implications of this doctrine especially with respect to the relationship between the Written and the Oral Torah. Professor Rabinowitz, who formerly served as Chief Rabbi in South Africa and who now resides in Israel, is a renowned author and scholar. His article on "The Talmudic Meaning of Peshat" appeared in our Fall 1963 issue.

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Although Rashi wrote an Introduction to his commentary on Canticles, he apparently did not feel the need to do so with his Pentateuch commentary, but plunges immediately *in medias res*. Except for Saadya Gaon who prefaces his epoch-making *Emunot ve-Deot* with an introduction, the custom of writing introductions had not yet been adopted by rabbinical writers in Rashi's time and place, although it became common shortly afterwards. The importance later placed upon these introductions is sufficiently indicated by the well-known proverb, "A book without an introduction is like a body without a soul." The purpose of the introduction is to explain the scope, the method and the intention of the book, the principles underlying it, and the reasons which prompted the author to publish it.

I am, nevertheless, convinced that the classical commentary of Rashi does in fact contain a kind of introduction, but instead of separating the "soul" from the body he incorporates it in a very literal sense into the body of his work. In other words, the opening statement of his commentary, brief though it is, represents just that introduction, fulfilling the purposes of an introduction adumbrated above. As such, it merits deeper study and closer attention than has been given to it. That it partakes of the

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nature of an introduction is evident from one salient fact. It is, as far as I am aware, the only comment in his whole work which departs from his otherwise rigid method of explaining the verse which is the subject of the comment. This passage, however, does not aim at explaining Gen. 1:1. It explains Rashi's view of the meaning and purpose of the Torah as a whole to the Jew.

What is it that he says in these few but pregnant words of introduction? "The Torah should have commenced with Exodus 12:2, 'This month shall be for you the beginning of months,' since it constitutes the first *Mitzvah* which the children of Israel (as a whole) were enjoined to observe." Rashi thus apparently denies any real value to the whole of Genesis and the first eleven chapters of Exodus, which include the story of Creation and the Flood, the epics of the Patriarchs, the origin of the twelve tribes, the descent to Egypt and the cruel bondage, the birth and development of Moses and the struggle for freedom until it is practically gained.

Obviously, however, that is not the intention of Rashi. His purpose in making this observation is a profound and fundamental one. It is to emphasize the salient fact of the sole meaning of the Torah to the observant Jew. It is not a literary document; it is not a historical record; it is not a source book of archaeology. All those and other innumerable aspects of the Bible have their value and place. To the observant Jew, however, they are insignificant compared with its main purpose: "to give the commandments which the children of Israel are enjoined to observe." It is not sufficient even to say that the Torah is the revealed word of God. That constitutes merely the *Nishma* (we shall hear) and the *Nishma* is meaningless unless it is joined to the *Na'aseh* (we shall do). The Torah is revealed to the Jew for the purpose of indicating to him "the way that he should go and the things which he should do."

The acceptance in practice of that fundamental lesson which Rashi teaches depends upon three basic and inviolable principles:-

1. The doctrine of *Torah min ha-Shamayim*.
2. That the Massoretic text, handed down with loving care and with meticulous regard for every letter, throughout the centuries, is the *only authentic textus receptus* of that Torah.

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3. That the only valid and acceptable interpretation of the Torah for the purpose expressed by Rashi is that of the Torah *she-beal peh*, the Oral Law eventually enshrined and consolidated in the Halakhah. These constitute, to my mind, the three pillars upon which the whole conception of Traditional Judaism stands. The demolition or the weakening of any one of them causes the whole magnificent edifice to come crashing down, leaving only debris behind. By them Judaism stands or falls. It is to a brief examination of these three principles that this article is devoted.

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A cursory examination of the Torah makes it obvious that this formulation of the doctrine of the divine origin of the Torah is much more accurate and exact than the cognate phrase, *Torah mi-Sinai* (based on *Avot* 1:1), with which it is usually regarded as synonymous.

The biblical record is clear and explicit. In Numbers 10:11 we read: "And it came to pass, on the twentieth day of the second month in the second year, that the cloud was taken up from the tabernacle of testimony. And the Children of Israel took their journeys out of the wilderness of Sinai." Here they departed from Sinai and did not return to it. All the subsequent incidents, the grumbings, the spies, the rebellion of Korah, and of course the conquest of the lands of Sihon and Og, took place after the departure from Sinai. The magnificent farewell oration of Moses, which forms the bulk of Deuteronomy was given "eleven days' journey from Horeb" (Deut. 1:2) which is Sinai. But it is not only the historical portions which are thus post-Sinaitic. The regulations of the institution of the Second Passover (Num. 9:9-14), since they were given on the fourteenth of Nisan, five weeks before their departure from Sinai, must have taken place there, and it was therefore at Sinai that Moses had to "hear what the Lord will command." But this cannot be said of the plea of the daughters of Zelaphhad, which, after Moses had "brought their cause before the Lord" (*ib.* 27:5), produced the important laws of inheritance where there were no sons, and the temporary

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prohibition of inter-tribal marriage of daughters in such cases. It is true that on the principle of *ein mukdam u'meuchar ba'Torah* (that the Torah is not recorded chronologically) it might have taken place while they were still at Sinai; but it appears more likely that it was in Transjordan. That is possible according to the view of R. Akiba that Zelaphhad is to be identified with the desecrator of the Sabbath of 15:32, but not according to that of R. Judah ben Bathyra that he was one of the *ma'apilim* of 14:44. (*Shab.* 96b, 97a. Rashi gives this view in the name of R. Simeon). Similarly with the man who blasphemed the name of God (24:10-16). In all those cases Moses had to enquire especially of God. The explanation that "he had forgotten the halakhah," i.e., that those laws were actually promulgated at Sinai but forgotten by him, is not only homiletical, but is not stated with regard to all three. In short, the Torah contains "the words of the covenant which the Lord commanded Moses to make with the Children of Israel in the land of Moab in addition to the covenant which he made with them in Horeb" (Deut. 29:1). That idea applies to all that portion of the Torah which took place and the laws which were promulgated after the departure from Sinai.

It is surely obvious from those examples, which could be multiplied, that *Torah mi-Sinai* is but a loose appellation for the exact phrase *Torah min ha-Shamayim*, which means that on the death of Moses the whole of the Pentateuch as we have of today, was complete, without addition or diminution, as the divinely revealed Scripture.

Nor can any rigid doctrine be laid down as to the exact manner of communication of this revelation. Only human terms can be employed to convey the fact of Revelation; that is the wider meaning of the well-known phrase, *Dibrah Torah ki'leshon benei Adam*, and that, the only method available, is obviously inadequate to convey the mystery of *mattan Torah*, of the confrontation of Moses with God. The almost radical explanation of Ibn Ezra (on Exodus 20:1) as to the differences between the wording of the two versions of the Decalogue is as acceptable doctrine as the talmudic *Zakhor ve'shamor be'dibbur echad ne'emru* ("Remember" and "keep" were commanded simultaneously). All that

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can be said with certainty, and must be said, is that, as explicitly stated in Num. 12:6-8, the manner of the divine communication to Moses differed from that to any other prophet. Whereas the other prophets received their messages while their normal cognitive faculties were in a state of suspense, Moses alone received that communication while in full possession of all his normal cognitive faculties, "mouth to mouth, even apparently and not in dark speeches" (Num. 12:8), or, even more explicitly, "And the Lord spoke unto Moses face to face as a man speaketh to his friend" (Ex. 33:11). "Mouth to mouth" and "face to face" are perfect examples of the inevitable anthropomorphism which is of necessity involved in using human terms to convey the mystery of divine communication. But that communication was our Torah.

THE MASSORETIC TEXT

From the translation of the Bible into Greek (the *Septuagint*) in the third century B.C.E. down to the latest (in time) discovery of texts and fragments of Scripture in the Dead Sea Scrolls and other documents from the caves of that area, it is obvious that there were versions of the text which differ from our accepted text. Incidentally, the differences between the latter and our text are so comparatively insignificant as to have completely demolished the glittering but unsubstantial edifice of "Lower Criticism" so ingeniously constructed during the last century. Hardly a single emendation proposed by those scholars, of whom Schechter said that they may claim to know the Bible but they do not know Hebrew, has been confirmed by those texts. How then are we to regard our text, upon which depends the whole enduring magnificent structure of the Oral Law and the Halakhah, in comparison with those texts which show variants from it?

The answer is surely simple and logical. "The early scholars were called *Soferim*," declares the Talmud (*Kid.* 30a) "because they were wont to count (*soferim*) all the letters of the Torah." The meticulous manner in which they carried out this task is sufficiently indicated in the same passage by the information which it elicited to the effect, for instance, that the *vav* of *gachon* (Lev.

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9:42) marks the half-way mark of the letters of the Torah, the words *darosh darash* of Lev. 10:16 the dividing line between the words, the *ayin* of the word *miya'ar* of Psalm 80:16 half of the letters of Psalms, and Psalm 88:38, half of the verses.

With what loving care and sacred devotion, then, did they jealously guard every letter of the text! What exhaustive and detailed regulations they laid down in order to ensure that the copying of the scrolls should be completely free from human error! There has been nothing like it in the history of literature or religion, and in this respect the Massoretic text stands indisputably in a class by itself. It could not under any circumstances be expected that those who did not accept the supreme sanctity of the revealed word of the Torah, whether they were Alexandrian Jews who had come under the influence of Greek philosophy, or the sects of the Dead Sea who rejected the Halakhah of the Pharisees, should have the same approach of *noli me tangere* with regard to the handing down of every letter of the Torah. To them there was no harm in adding, diminishing, or amending for the sake of greater clarity or preconceived theological doctrines just as the various editors of Shakespeare's works have done. And the greatest proof of the authenticity of our text lies *in the very fact of its apparent contradictions*, as in its *Keri* and *Ketiv*. It was *because* the text was sacred and inviolable that it could not be tampered with. These contradictions had to remain and be resolved by exposition and interpretation. Were it not for this it would have been the easiest and simplest thing in the world to have "*emended*" the text in order to remove these awkward difficulties.

To that question of the *textus receptus* one point of comparative unimportance must be added. There are medieval rabbinic manuscripts which show minor variations, which are wholly confined to full and defective orthography. Even the Talmud, in the above-quoted passage, says that whereas the *Soferim* were expert in these spellings "we (the Amoraim) are not." There are no theological problems connected with these minor *variae lectiones*, or rather orthographical variants—Ibn Ezra in the essay quoted even denies any importance to them at all. The point which must be borne in mind is that the Massoretic text is the sole *textus receptus* of the Torah. All other readings represent man-altered va-

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riations from that authentic text and have no authority in Jewish law. That in our present text, with its authoritative variations in spelling, there lie enshrined some of the most profound doctrines of the Torah has been amply demonstrated by many of the brilliant comments which the Gaon of Vilna made on the basis of these spellings.

TORAH SHE'BEAL PEH

As previously indicated, the only acceptable interpretation of the Torah *for the purpose expressed by Rashi*, is the Torah *she'beal peh*, the Oral Law which is enshrined and consolidated in the Halakhah. The words italicized are definitive. There are other acceptable interpretations of the Torah, *but not for that purpose*. In a recent article published in *Tradition* (Fall 1963) I questioned the assumption that the word *Peshat* as used by the Rabbis bears the same meaning as later commentators, beginning with Rashi, give it, i.e., "the plain literal meaning." Whether that be so or not, however, there can be no shadow of doubt that one is free to interpret the Torah otherwise than in accordance with the Halakhah derived from it, *provided that that interpretation is not regarded as halakhically binding*. One of the outstanding features of Rashi's commentary is the frequent preference which he gives to the *Peshat* over the traditional homiletical interpretation of the Midrash. His grandson Rashbam goes further and often gives interpretations according to the *Peshat* which are in direct conflict with the halakhic interpretation. One could cite numerous examples, but in fact we have no need to have recourse to the medieval commentators, or even to the Rabbis of the Talmud and Midrash for examples of this non-halakhic interpretation. It occurs even in the Written Torah itself. A striking example is afforded by Deut. 23:16 which reads, "The fathers shall not be put to death for the children, neither shall the children be put to death for the fathers; every man shall be put to death for his own sin." The Oral Law declares (*Sanh.* 27b; *B.K.* 88a) that the last phrase sufficiently indicates that there can be no vicarious punishment for sin, and applies the first part of the verse to enjoin the law that the *evidence* of children is inadmissible with regard

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to their parents and vice versa. Yet in II Kings 14:5 we read that Amaziah put to death the murderers of his father Joash, and the next verse continues, "But the children of the murderers he slew not, according to that which is written in the book of the Torah of Moses, wherein the Lord commanded saying" — and this verse is quoted! That, however, does not constitute proof that the halakhic meaning of the verse was different during the time of the First Temple from what it was to the Rabbis. A parallel from the fifteenth century will make this clear. A case came before R. Israel of Bruna of a woman servant who claimed damages from her mistress for wrongful dismissal. Her mistress had instructed her to go to the market to make purchases and when she refused on grounds that she might thereby be exposed to rude treatment, she was dismissed. R. Israel Bruna found in her favor, and ingeniously applied the verse of Exodus 21:7, that a maid-servant "shall not go out as menservants do" to support her claim. His decision was based on legal halakhic grounds; he applied this verse in support, perfectly aware that this was not the Halakhah derived from it. Amaziah similarly justified his clemency by quoting this verse; the fact that its legal meaning is otherwise is not thereby affected.

It is not out of place to give an example of non-halakhic exegesis from the period of the Talmud and Midrash, and one from the medieval commentators.

Twice (*Ber.* 5:3; *Meg.* 4:9) the Mishnah states that if the Reader, in extemporizing his prayers, says "To a bird's nest does Thy mercy extend," he is silenced. Such a statement, therefore, apparently borders on the heretical, and the *Gemara* (*Ber.* 33b) gives the reason that "he makes the Divine ordinances [Deut. 22:6-7] acts of mercy instead of injunctions." This however does not prevent the Midrash (Deut. 6:4) from declaring, "And in the same way as the Holy One, blessed be He, extends his mercy to animals, so He is filled with mercy towards birds, as it is said, 'If a bird's nest chance to be before thee, etc.'" Maimonides, in his *Guide* (3:48) giving the same reason, derives from it the moral that "if the Torah provides that such grief should not be caused to cattle and birds, how much more so should we be careful that we do not cause grief to our fellow man." Moreover, quoting

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the Halakhah of the Mishnah, he refers to it as merely one of two opinions, while “we follow the other opinion.” The Halakhah of the Mishnah therefore does not exclude alternative interpretations. Yet in his authoritative code of the Halakhah, Maimonides (*Mishneh Torah, Hilkhot Tefilah* 9:7) not only naturally codifies the Mishnaic Law, but gives a cogent proof that it *cannot* be based merely on considerations of mercy.

The examples in the medieval commentators are legion, but the one here selected is striking. The whole basis of the dietary law of the separation of meat and milk is based on the thrice-repeated (Exod. 23:19; 34:26; Deut. 14:21) verse “Thou shalt not boil a kid in its mother’s milk.” Abarbanel (*in loc.*), after explaining this law, states, “But it appears *more correct* to explain it [the prohibition] by the prevalent idolatrous custom of shepherds who boil a kid in its mother’s milk at their annual gatherings at the time of harvest, thinking that in this manner they would propitiate their gods who would then bless the work of their hands.” After giving details of the existence of this ceremony among the shepherds of Spain and England in his time he says “And I am of the opinion, in truth, that it is for this reason that the Torah enjoins it,” but the Rabbis extended it to a total prohibition of meat and milk to wean them from this custom. This explanation of Abarbanel has been fully confirmed by the Ras Shamra texts which make specific mention of this pagan Canaanitish custom. Moreover, it explains the connection between the first half of the verse as it occurs in both passages of Exodus, “The first of the first fruits of thy land shalt thou bring into the House of the Lord.” It is in this way that the Jew is to express his gratitude for the Divine bounty, not by following the pagan custom.

It is therefore acceptable as an alternative explanation *per se*, but it does not affect the authoritative Halakhah, as indeed Abarbanel takes pains to point out.

It was this clear distinction between the study of the Torah halakhically and its independent study *per se* which rendered possible that remarkable freedom of biblical interpretation of which Rabbi Dr. Leo Jung gives such striking examples in his introductory essay to *Guardians of Our Heritage*, and it is this which has made the independent study of the Bible a never-ending source

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of inspiration throughout the centuries. It permits us to accept interpretations alternative to those laid down by the Halakhah, provided that the fundamental purpose is not lost sight of. As far as the Bible as a guide to conduct is concerned we accept only that interpretation of the Bible which is confirmed by the Halakhah.

There is one aspect of the intimate connection between the Written and the Oral Law, however, to which insufficient attention has been paid. The Tannaim who flourished in the second century were responsible for two things of decisive importance to the whole future of religion and to the development of Judaism. It was they who, on the basis of the seven *Middot* of Hillel, later expanded by R. Ishmael to thirteen, elaborated the Oral Law which culminated in the authoritative code of the Mishnah. But it was these selfsame Rabbis who were also responsible for the final determination of the Canon of the Bible. The tremendous importance of the connection between the two can be illustrated by reference to Ecclesiastes. There was a difference of opinion between the Rabbis as to the "divine inspiration" of this book, upon which its inclusion in the Canon depended. We happen to know who the disputants in this question were. It was one of the many differences of opinion between Bet Shammai and Bet Hillel, the former denying its sanctity and the latter upholding it (*Eduyot* 5:3).

That Ecclesiastes was included in the Canon is therefore but one result of the decisions taken at the historic conference at Yavneh that the Halakhah is generally in accordance with Bet Hillel in preference to Bet Shammai. (*Ber.* 36b; *Eruvin* 13a). From this fact emerges a point of far-reaching importance. We are ineluctably led to the conclusion that the same *ruach ha-kodesh*, "divine inspiration," which infuses the books of the Bible and which is so fundamental to our conception of the Scriptures, must of necessity have guided the actual selection, and the selectors, as to which books were to be included. This conclusion is irresistible and unavoidable. Unless we accept it the whole question of the canonicity of the Bible is thrown into doubt. If we maintain that the decision as to what the authoritative Halakhah is was merely a human decision, subject to human error, the very

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foundations of religion are automatically assailed. Let us imagine that in fact Bet Shammai was right that Ecclesiastes "does not render the hands unclean," that it was not divinely inspired, and that the decision to accept the contrary view of Bet Hillel was therefore wrong. In that case the justification for including this book in the Canon no longer obtains. It would mean that an uncanonical book found its way, as a result of faulty human judgment, into the Twenty Four Books. To such a proposition no genuine expression of Judaism can possibly agree. In all the differences of opinion of every conceivable kind as to the validity of certain theological tenets, one fact stands out inviolate and unchallenged: the divine inspiration of the Bible *as a whole*.

But the decision to include Ecclesiastes, and the other books of the Bible about which a difference of opinion arose, is not the only example of the Halakhah accepting one view as binding upon the Jew and rejecting the other, despite the fact that "both of them are the words of the living God" (*Eruvin, loc. cit.*). Confining ourselves to the differences between the Schools of Shammai and Hillel alone, the Mishnah of *Eduyot* (Chapters 4 and 5) enumerates no less than forty points of difference between them, and the decision that the Halakhah is according to the latter (with some exceptions) applies to and encompasses them all. And we are bound to say that what applies to the determination of the Halakhah with respect to the sanctity of Ecclesiastes applies with equal force and cogency to all the other laws which were determined by this historic decision. One must of necessity apply the same criterion of a divine hand, guiding in some mysterious way, those decisions.

These same considerations apply to every aspect of the process whereby the Halakhah becomes definitive. In all of them the rule must be accepted as being in accordance with the will of God, however much it may appear to have been arrived at by merely human processes. It is this fundamental principle which underlies the famous and dramatic incident related in *Bava Metziah* 59b.

Thus the *Torah she'beal peh* becomes what Traditional Judaism has unswervingly maintained it to be, not a derivative of the Written Torah but a portion of it and its authoritative mean-

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ing. On it and on it alone we base our lives, our thoughts and our actions.