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The following article is excerpted from a letter sent by Professor Yehuda to his daughter. Another part of that letter appeared in our Summer 1979 issue.

HAZON ISH ON TEXTUAL CRITICISM AND HALAKHAH

(From a letter responding to a question on Hazon Ish's attitude toward textual criticism.)

What is the relationship between scholarly research, revealing new historical and textual facts and arriving at new opinions in the domain of Torah, and the traditional rabbinic way of deciding halakhah? What if the two conflict? How do we resolve contradiction or friction between the two trends, and on the basis of what rationale?

Let me now posit and explore one fundamental concept I learned from my great teacher, Hazon Ish: the relative irrelevance of textualism to halakhah.

Existentially, it is certainly possible that sources or texts we have recently discovered (or will discover in the future) were unknown to *Aharonim* or *Rishonim*. It is also theoretically conceivable that alternative variants in the texts of our primary sources (Tanakh, Mishnah, Midrash, Talmud, etc.), which may yield new meanings or implications, are preferable. Even if and when these can be proven in a scholarly way, in specific, pertinent cases, nonetheless, halakhically (for *din*, for the purpose of *pesak-halakhah*), we rely only on the traditional succession of oral and recorded teachings. Authoritative halakhah is based only on the sources that went through the living chain of tradition, generation after generation, precisely in the way they were understood and read, passing the most scrupulous scrutiny of rabbinic deliberation and verification.

Now, what about all the other sources and the newly gained information that were not an integral part of this rabbinic tradition nor did they stem from it? They are certainly important as far as ascer-

taining new opinions or facts, but not normative halakhah. Halakhah is a unique, self-sufficient process of erudition, aimed at formulating law—addressing itself to present, immediate situations and applying to them established and authorized rules. Halakhah does not get involved in speculating on history or postulating theories.

Therefore, if we find hidden (*geniza*) manuscripts heretofore unknown to the traditional trend, they may shed new light on the meaning and reading of our classic texts, on the historical or literary level, but they cannot reshape the organic growth of halakhah the way it actually developed and in the form in which it became concretized throughout the ages.

I recall an impressive episode in 1943. I was then young and eager. I was very close to Hazon Ish, whom I first met 2 years earlier and who, from the start, lavished on me his love and care and took me under the wings of his influence and guidance. At that time, a former teacher of mine whom I had dearly admired and with whom I had still maintained a close friendship, the eminent talmudic scholar Dr. Binyamin Menasheh Lewin (d. 1944), the author of the monumental *Otzar Ha-Geonim* (thesaurus of the Gaonic responsa and commentaries following the order of the talmudic tractates), complained to me that the traditional talmudists and yeshivah world are not paying attention to his work.

This conversation, as I recall, took place after he had already published his twelfth volume (on *Baba Kama*; he died a year later in the middle of writing the thirteenth volume (on *Baba Metsia*).

He bitterly bemoaned:

See, here I painstakingly assembled invaluable sources of the *Gaonim*, the greatest authorities after the Talmud; most of the material taken from the *Geniza*. These new sources, printed by me for the first time, very often offer textual amendments and interpretations that may change the course of halakhah. Why don't they use my books in the *yeshivot*? Why don't the talmudists rely on them in current, burning issues of halakhah? Surely, they could find in my work plenty of references enabling them to solve the misery of many *agunot*. Why do they ignore me?

I was left speechless. What could I say? Indeed, this attitude of *bitul* (derision and estrangement) toward a great scholar and his remarkable work truly bothered and hurt me. He continued: "I hear you are now close to the famous sage in Benei-Berak; why don't you ask him what he has against me?" I did.

Hazon Ish explained his position (as just summarized), adding a laconic verdict on *Otzar Ha-Geonim*: "The old material, we have;

the new, we don't need." He explained:

The sources already printed are found in the works of the *Rishonim*, organically within the context in which they are quoted and the way they are discussed and treated; the sources now printed for the first time from *Geniza* manuscripts, whatever their importance may be for academic study, are irrelevant for halakhic consideration.

In short, the old material is already available; the new is halakhically useless.

In conclusion, the scholarly, critical research in talmudic texts has its own value for enriching our insight into the history, realia, psychology, and sociology of the rabbinic phenomena, leading as it does to a better understanding and interpretation of the literary material as such. Important as all this is, it is inconsequential for the current stage of halakhah. History cannot be tampered with. We are unable to reconstruct the historic way rabbinic tradition actually progressed as a living experience.

When I now think about all this from the vantage of maturity and broader perspective, I feel I must emphasize that Hazon Ish did not degrade the modern trend of research. He zealously guarded the discipline of halakhah. He was afraid of confusing the separate domains (*tishtush hatehumin*) of academic learning and of applicable halakhah. Hazon Ish was the person of halakhah, which was his primary, if not only, interest. As such, he was very cautious in protecting the internal system of halakhah. Did he consider nonhalakhic study, the indulgence in research for the sake of learning the truth (the only goal of a true scholar), a waste of time (*bitul zeman*) or a legitimate form of the duty to study Torah (*mitsvat talmud Torah*)? I am not sure. I tend to surmise the latter. As long as one knows the distinction between the speculative and the normative, and does not apply nonhalakhic theory to halakhic verdict, any study of any aspect of Torah, with integrity (*leshem shamaim*) is *mitsvat talmud Torah*. But this I can only infer; I did not hear it specifically from Hazon Ish.

What about the future? Halakhah is not static, but dynamic. Our newly gained knowledge in the field of textual criticism—like any other field of study, secular or sacred—can and should be useful and influential in future considerations of Torah authorities. As long as the present and past stages of halakhic progression are fully recognized and considered as immutably authoritative and binding, the future stages may take cognizance of the scholarly findings, within the limits of the rules of halakhic decision making (*kelalei hahora'ah*), thus breaking new ground and opening new halakhic horizons. This idea,

too, I never explicitly heard from Hazon Ish.

This I did hear in his incisive words: "The hand of Providence must be seen in the historical evolution of halakhah." This insightful remark was often repeated by Hazon Ish as the underlying rationale for the autonomy of halakhah, the irrelevance of recent discoveries for the "remolding" of halakhah, and (this is my own, not attributable to Hazon Ish, although it logically may follow his general view) the prospect of organic, innovative, creative development of halakhah in the future. If the *rishonim* did not have the material and knowledge we now discover, this was the will of God. May we not add a counterpart of our own? If now we do have this material and information this, too, is the will of God.

So much for the texts of the oral Torah; let me now advance further to the most sacred and cherished text of the written Torah.

We must bear in mind what we usually tend to forget, that even with regard to the text of the written Torah, we are still within the domain of the oral Torah. It is the oral tradition that precedes (both historically and conceptually) the written documentation. It is the oral tradition that determines, preserves, and projects the final meaning of the text, from the simple, elemental decipherment of the letters (Hillel and the *ger*; *Shabbat* 31a) to the elaborate, hermeneutic exposition of the messages (via *midrash*). And, most important, it is the oral tradition that dictates the written text itself—its entity, sanctity, scope, and mode of production on a scroll.

It is the living and dynamic halakhah, the ongoing oral tradition entrusted to living and growing scholars, generation after generation, that delineates the content and format of the written Torah, thus bestowing life and force to dead and mute scrolls. It is halakhah (not another "primary" scroll, kept somewhere forever as the ultimate "model") that prescribes what should be written in the *sefarim*, how, and by whom. The written Torah is dependent on the oral Torah, even as the oral is rooted in the written.

Here is a stunning example I heard from Hazon Ish. Assuming that an old *sefer Torah* from a very remote past will be found (let us say, of Rashi, Rabbi Akiva, or any other great authority of antiquity or, for the sake of argument, even of Moshe Rabenu himself) and that we will detect textual variants distinguishing it from the current masoretic texts (in spelling, *maleh* and *haser*, *qery* and *ketiv*, form of letters, division of *parashiyot*, etc.), all of which is not only possible but even expected because of both the fallibility and the dignity of the mortal scribes, which are neither angels nor robots, what are we going to do?

Halakhah dictates, said Hazon Ish, that we do not correct our

sefarim according to the old *sefer*, but vice versa. The old *sefer Torah*, even if it were written by the greatest authority, must be considered *pasul* as long as it does not conform to ours. In order for it to become *kasher*, it must be amended and adjusted to comply with the text of the contemporary *sefarim*, according to the regulations of the most recent halakhah. It seems strange. We view the past in light of the present, and not the present in light of the past. Why?

The halakhic conception of "correctness" with regard to the Torah text (like any other item in the pervue of halakhah) is based on the rule of majority, not antiquity. This is the general halakhic way of gauging reality and properness: it is horizontal, not vertical. The majority of the presently existing *sefrim* within the reach of the scribe, authenticated by the majority of scholars within the community of the scribe, determine what is the valid masoretic text at his time and place. This is halakhah. The "age" of a certain *sefer* in itself, although it may intrigue and fascinate the critical scholar, is no *yihus* (asset) for the halakhist. An old *sefer* is just another *sefer*, and it must comply with contemporary rules. Its antiquity does not render the *sefer*, *ipso facto*, more sacred or more reliable. Sanctity and reliability of any *sefer* are determined without discrimination, by the equalizing dicta of halakhah. This is the objective principle. Subjectively, of course, one may feel that the *sefarim* of one's favorite scribe are more precise, aesthetic, inscribed with more *kawana*, etc.; but halakhah knows only the categories of *kasher* or *pasul*. If it is one of the two, no matter who the scribe is, the ruling is the same for all. Surely rarity of a textual variant, a delight for the researcher, is a *hisaron* (flaw) for the halakhist, who is looking not for the novel but for the norm. Here is displayed an admirable blending of two basic halakhic principles: majority (*aharei rabim lehatot*) and contemporaneity (*halakhah kevatrai*).

In Second Temple days, three ancient *sefarim* were found in the Temple's *azara* (court; *Yerushalmi*, Ta'aniyot 4:2;68a). They disagreed with each other in text. None of them served as the sole model for the "accepted" text. Probably none was *kasher*. But in each and every case of textual disagreement between these three *sefarim*, the majority of them determined the preferable text. Thus a rather "compromised" text emerged for current usage, a text that may have had no precedence whatsoever in any of the previous—extant or lost—*sefarim*. But this consideration presents no difficulty or deterrent for the halakhic logic and process. This is certainly not the method or the aim of the objective scholar who seeks to find out the truth about the original, primary text. Halakhah, unlike pure

science, is not observing, but creating; it is not describing, but prescribing.

Halakhah, then, by virtue of its own organic reasoning and self-contained system, might have "created" a synthetic new text of the Torah, unknown to previous generations, rendering their *sefarim* for us halakhically *pasul*. In the same way that Moshe, if imaginarily placed in Rabbi Akiva's academy, would not have understood his oral Torah (*Menahot* 29b) so, too, he might not have found Rabbi Akiva's written *sefer Torah* completely identical to his own.

This process of halakhic dynamism and creativity, which is derived from its own unique structure, continued throughout the ages.

From the time the three *sefarim* disappeared (possibly in the Temple's destruction, 70 C.E.) until the present, we still follow in theory the verdict of majority as the only valid determinant for the "correctness" of Torah's text. In practice, however, the method of verification is somewhat different since the invention of print. The printed editions of *Shulhan Arukh*, with all the subsequent commentaries, are available for all. We have the benefit of consulting the printed works of the latest *aharonim*, and the latter the better, where many controversial points in the laws of *sefarim* are decided and recorded in print. This does not mean that the halakhic process came to its final end. Torah is never exhaustible. Usually, under normal circumstances, we do not have to resort to the basic method of manually counting *sefarim*. But the principle is still alive. In extreme cases, when a community is placed in a remote environment, with few *sefarim* and no direction, manual counting will be the halakhic requirement, and the majority will rule.

The overriding rule is the same as always: majority, both of rabbis and books, flourishing in the contemporary vicinity. Halakhah is concerned with the present, not the past; its way of verification is existential, not archaeological.

It is abundantly clear that the present *sefarim* do not fully correspond with the ancient ones. This was already noticed and noted by great authorities throughout the ages (*Shabbat* 55b, *Tosafot* and R. Akiva Eger's gloss). As also proven by recent studies, many *midrashim* and *rishonim* used *sefarim* that differed from ours. There is no reason for despair or guilt. In their days and places, they were halakhically correct; in ours, we are.

The philosophical point is that by clinging to our present text we are not making any statement about the accuracy of the text (in descriptive terms) but about its currency (in prescriptive terms). We do not assume this is the original text, but this is the will of God. We

do not try to approach the primary scroll but the primary cause.

The accuracy of the original text of the Torah can only be ascertained by finding and authenticating the actual lost document—the *sefer Torah* of Moshe Rabenu. This is an exciting but highly unlikely prospect. Did it survive the burden of time? If it did, who is qualified to verify its genuineness? But assuming that we somehow discovered this precious copy, or perceived an unmistakable vision of it, or gained knowledge of it by revelation (e.g., “when Eliyahu appears”)—so what? This will gratify all of us who love archaeology and delight in tracing our roots, but it will mean absolutely nothing for the pure halakhist. The real *Sefer Torah* of Moshe—as paradoxical and shocking as it sounds—is inconsequential for halakhah, and it will not determine the masoretic text.

Why? Consider that this ancient document of Moshe, possibly in non-Ashuric script, may not even have yet been completed (*Baba Batra* 15a)—certainly, *pasul*. But this is not the real problem. Even if everything is adequate, the text complete and intact, the script right and legible, it is still of no interest for halakhah. Halakhah is concerned not with “what was” but with “what ought to be.” Halakhah is rooted in current, ongoing reality and is neither shaken nor fortified by any evidence ferreted out from remote ages and places, “What was, already was” (*ma shehaya kevar hu*; Kohelet 3:15). Halakhah looks forward, not backward. Halakhah is modeled in the image of man whose eyes—to borrow Maimonides’ imagery—“are in front, not in the back.” Hence, the majority rule.

Majority rule (both in opinions and in texts) is certainly not a valid way to establish truth, in both realms of idea and fact, but it is a sound, useful, and reasonable method to reach agreement and formulate conduct.

To understand better the irrelevance of ancient scrolls for strict halakhah, we must consider the true goal of the halakhic person, *Ish Ha-halakhah*. What is the supreme purpose of the careful scribe when, in his utmost endeavors, he meticulously and assiduously inscribes, with *kawana* (devotion), a *sefer Torah*? What is the ultimate aim he wants to accomplish? Is it to produce an exact replica of the lost and original scroll of Moshe Rabenu? Not at all! It is to perform a *mitsvah*! Like any other *mitsvah*, he tries to perform it with all its details and requirements. He is concerned not with a text attributed to Moshe, but with the halakhah as derived and traced to the Torah of Moshe. He follows not a mirage of a corporeal, destructible *sefer* of antiquity, but the clear demands of an eternal, enduring Torah of living. He is imbued with the soul of the oral Torah while he copies

the body of the written Torah. His devotion is not to a lost and elusive text of Torah, but to Torah itself, in its entirety and completeness. He yearns to do the will of God as manifest in Torah.

In concrete terms, this will of God, as incorporated in halakhah, demands that the scribe not be engaged in tracing lost treasures of antiquity; instead, he must do his best, as far as humanly possible, by using the accumulated and available data and dicta of the rabbinic position in his own time and place. Thus, by applying the lasting and immutable principles of halakhah, he is asked to produce not an exact copy of an old item, but the current, recent, acceptable, living text, called *masoretic* (not "genuine" or "authorized"). It is so called judiciously, to indicate that this text is not necessarily, in scholarly terms, the "exact" primary text, but a text that passed the test and sanction of the rabbinic tradition, which is dynamic, progressive, compliant and concessionary. It is the transmitted (from *masor*) and binding (from *asor*) text, proceeding through the way of halakhah (from *halokh*).

This halakhic approach is antithetic to the scientific. It does not seek theoretical veracity of facts, but it provides for the coherence, integrity, sanity, applicability, durability, potency and, above all, humanity of halakhah. Halakhah is rooted in human nature. It is humanly impossible to copy precisely, generation after generation, a nonexistent original, without any mistakes or slight changes. It is humanly impossible (and therefore neither required nor expected) to reproduce constantly, everywhere and forever, the very same text, without some inevitable inconsistencies. The talmudic rule (*Bekh.* 17b) that "we cannot be punctual to the dot" (*letsamtsem*) is insightful and to the point. Halakhah only asks that we try. Halakhah requires, thus, that we carefully copy only the prevelant, available, and approved text of the day, not an old and lost one.

Expressed in halakhic, categorical terms, it is our duty to do our best within the limitations of our situational, environmental, physical, and psychological condition, and not resort to other-worldly or unusual means. Torah is not in heaven. Torah is within the immediate reach of our human, natural resources and efforts. It is attainable. What is remote and inaccessible, what can be approached only by extraordinary, ultranatural, or metaphysical means is beyond its scope.

Let us, for example, assume that a highly qualified scribe, with access to supernatural or revelational knowledge, in his devotion and ardency to find the true text of Torah, will venture to construe it by miraculous or inspirational means (*bat kol*, echo of a heavenly voice,

ru 'ah ha-kodesh, Divine spirit of sanctity, etc.), being unequivocally convinced that the disclosed text corresponds to the original. What then? Surely this "revealed" text, if it does not exactly follow the halakhic "presumed" text, is utterly *pasul*. Not that we question the reliability of the pious scribe and his sacred source; even if his claim is true and his information valid, his conjured text is irrelevant. Esoteric experience has no bearing on exoteric halakhah.

The halakhic person must follow only what is perceived by his human eyes (*ein lo ladayan ela ma she'einav ro'ot*)—his sensory, not extrasensory perception. Rashi, based on his human eyes, clinging to his masoretic text, adhered to the will of God. We, based on our human eyes, clinging to our masoretic text, adhere to the will of God. We may not have exactly the same *sefarim*, but we share the same Torah; we are ruled by the same principles of halakhah. Rashi, according to his situational vista (*einav*), was duty bound to follow his *masora*, even as we are, to follow ours.

It is the will of God that is followed by all of us who adhere to halakhah. We are faithful not to dead scrolls but to the will of the living God. We engage not in bibliolatry but in *kiyum mitsvot*. This is why halakhah is constantly alive and never petrified. This is the secret of its vitality.

Ultimately, we rely not on texts—tangible and fixed objects—but on words—spiritual and living ideas. Even when scrolls are destroyed and burned—*gevilim nisrafim*—the lofty and vital words remain forever hovering and blooming—*otiyot porhot*.