

COMMUNICATIONS

TO THE EDITOR:

Prof. David Halivni's article "The Early Period of Halakhic Midrash" (Spring 1986) raises some serious philosophical issues. We know that there have always been any number of Jewish thinkers espousing differing points of view on various issues and, while these parties may have differed with each other, their positions have all been considered to be legitimate opinions within the realm of Orthodoxy's *hashkafa*. However, despite this, I believe that we must establish acceptable parameters of Jewish thought.

Obviously, any Orthodox thinker would have to accept the belief in *Torah min hashamayim*, the binding nature of *halakhah*, and belief in redemption, among other basic beliefs, to be considered within the pale of "legitimate" Jewish thought. When we deal, however, with other issues, there are no clear guidelines.

I think it is very important for us to address the question of the historical versus the "traditional" approach to *halakhah*. A number of years ago, Shmuel Shiloh wrote a piece in *Tradition* (Summer, 1982) on the difference between *halakhah* and *mishpat Ivri*, mentioning the use of the historical approach as a distinction between the two disciplines. Now, Halivni in his piece does not in any way try to change or adapt *halakhah* as a result of historical-scientific considerations, but he does use critical historical method in terms of proving his particular point. From an historical point of view, his approach is entirely correct and, indeed, he can prove his point in no other manner. However, the question is: can we accept this approach in terms of learning and studying history, and then refuse to apply it to *halakhah*? When Halivni rejects the

interpretation of the *Gemara* in reconciling the *Mishna* in *Sanhedrin* which mentions *mi-hutz le-bet din* with the Biblical verse that mentions *mi-hutz lamahaneh*, he draws nothing but historical conclusions. Nonetheless, can we afford to embrace this approach when logically it would then force us to apply it to *halakhah* as well? If indeed this is truly the correct understanding of the mishnaic phrase and the *Gemara* is in error in its interpretation, we have now opened the way to an historic interpretation of *halakhah* as well. Similarly, in terms of his explanation of Yose ben Yoezer's statement, to accept Halivni's interpretations as being historically valid and then to refuse to carry them over to the area of actual *halakhah*, is basically to deny the truth of the *halakhah*. It is stating that although we have certain errors in our Talmud, we are bound to follow them. I, for one, would certainly not be comfortable with such an approach, for I like to think that I believe in a *Torat emet* rather than a *Torat sheker*.

We now, therefore, have two choices in maintaining our belief in a *Torat emet*. We can either insist on altering *halakhah* to our new understanding of the historical realities, or we can reject the historical approach. (When I speak of the "historical approach," I am using it here in the very narrow sense of literary criticism and analysis as used by Halivni. There are many other aspects of the historical approach that are just as problematic but are not for discussion here.) To do the former is unthinkable. One of our very important beliefs is not only that a theoretical "*Torat emet*" exists, but that because of the authenticity of our *mesorah*, we indeed possess that *Torat emet*. We therefore remain with the sole option of divorcing ourselves entirely from the historical approach.

Of course, by refusing to accept this historical approach, we have really not solved the issue. If indeed the historical approach is valid, our refusing to accept it because it is then going to pose problems in terms of *halakhah* is akin to burying our head in the sand and refusing to recognize a vexing problem. I think one would generally find that the "traditional" view is that although historians are indeed great scholars and have great insight into history, nonetheless Hazal, who lived closer in time to the periods mentioned, had yet greater insight and understanding than historians. If they themselves did not think of the "plausible" suggestions of Halivni, perhaps there were good reasons for it. It is quite evident, for example, that our Sages also knew that in early times the court was found at the gate of the city, and they could just as easily have suggested Halivni's interpretation. In fact, many times in the Talmud we do find statements that suggest historical or geographical distinctions. Hazal were certainly not blind to the realities of life.

The issue that really must be clarified is, to what extent do we have *emunat hakhamim*? Modern scholarship begins every investigation with a tremendous amount of skepticism. Do we have the right to be skeptical of Hazal? I think it is crucial for *Tradition* to address and discuss these issues.

(RABBI) KENNETH AUMAN
Brooklyn, N.Y.

PROFESSOR HALIVNI RESPONDS:

I agree with Rabbi Auman that the problem of how to reconcile the historical-critical method of the study of *Halakhah* with the sanctity and absolute binding nature of *Halakhah*, is a serious philosophical issue with which an intelligent, observant Jew must grapple. To be sure the two sides of the dilemma are not symmetrical. The inviolability of *Halakhah* is a part of our Ani Maamin; no compromise is possible there, whereas the scientific method, by its very

nature, is tentative and to some extent adjustable. Nevertheless, the commitment to historical study, and hence to the critical method underlying it, stems in principle from our basic moral integrity, no mean religious obligation—to pursue and follow truth to the best of our abilities. In the present scholarly climate critical study is the only way. Mankind has not devised a better means of getting at historical truth. Not to apply it to *Halakhah* would, by present standards, deflect from the belief that our Torah is not only a *Torat Hayyim*, but also a *Torat Emet*.

II

What surprises me in Rabbi Auman's letter is that he seems to imply that to offer an explanation of a text different than the Gemara, providing it does not affect practical *Halakhah*, is a modern invention, coming in the wake of universal acceptance of the critical historical method. In fact, this practice has a long and respectable history, dating back to the Gaonim and perhaps even earlier. I collected part of the literature in a note to my *Mekorot U-Mesorot, Nashim*, p. 8, and this list was further enlarged by Rabbi Irwin Haut in his book, *The Talmud as Law or Literature* (Bet Sha'ar Press, N.Y., 1982), p. 49 note 14. For those who have no access to the above books, let me cite three (out of tens and possibly hundreds of) references.

1) *Tosafot Yom Tov, Nazir*, 5:פ"א שבגמרא לא פירשו כן, הואיל ולענין דינא לא נפקא ולא מידי הרשות נתונה לפרש. שאין אני רואה הפרש בין פירוש המשנה לפירוש המקרא שהרשות נתונה לפרש במקראות כאשר עינינו הרואות חבורי הפירושים שמימות הגמרא. אלא שצריך שלא יכריע ויפרש שום דין שיהא סותר דעת בעלי הגמרא.

2) Maharshal, *Hokhmat Shelomoh, Sanhedrin* 52b: טעא בדרב מתנה וכו' ויש לי ליישבו דלא טעה וכו' ואיני כחולק על התלמוד שהרי אין בו נפקותא לא לחיובא ולא לפטורא וכו'.

3) R. Yaakov Emden in his commentary on the Mishnah, *Lehem*

Shamayim, Beitsa, p. 115: ובגמרא לא איתא הכי וכו' וכבר עזרנו השי"ת במקומות מן המשנה ליישב הלשון כמו שהוא בלי תיקון תוספת וגירעון אע"ג דלכאורה משמע בגמרא דמשבשתא היא.

This was also the view of the Gaon of Vilna summarized in the statement quoted by his disciple, R. Manasseh of Ilya, in his name, in a book called *Ben Porat*, p. 33, saying: "שאף במשנה יש פשט ודרש".

III

I suspect that Rabbi Auman did not look up the sources I quoted in the article, at least not all of them. Had he done so, he would have realized that my interpretation of Jose Ben Joezer is not entirely against the Gemara, i.e., the B.T. interpreted Jose Ben Joezer as it did because it did not want him to be against the view of the *Bet Hillel* (Mishnah *Pesahim* 8, 8). This is consistent with the Babylonian Talmud's assumption that *mishnat Bet Shamai einah mishnah* and Jose Ben Joezer ought not to follow a Mishnah—a teaching—which is not a Mishnah. The Yerushalmi, however, (see my *Mekorot U-Mesorot, Shabbat*, pp. 361–2) does not share this assumption. According to it, there is no need to reconcile a Tanna's

opinion with that of the Hillelites (especially when the Tanna lived so much earlier than Hillel and Shammai as did Jose Ben Joezer). In light of this my interpretation of Jose Ben Joezer is not untraditional.

I also explained in the article why the Gemara—in this case both Talmuds—did not interpret חוץ לבית דין to refer to the time when outside the court was simultaneously also outside the city (in one direction): because in the time of the Gemara, the custom of the court sitting in the gate was long discontinued and the Gemara generally explains *Mishnayot* in line with the custom and Halakha of its own time (even when it is aware of the discrepancy). This has been noticed already by the Netziv, *Ha'amek She'ala*, 158:1. He says there: "דרך הגמרא לעקם פירוש המשנה כדי לאוקמא על הפסק" by which he means that the Gemara often "distorts" (i.e., explains *shelo kipehutah*) the meaning of a Mishnah in order that it should not contradict the Halakha prevailing during the time of the Gemara. Here, too, then my interpretation is not as untraditional as Rabbi Auman seems to make it.

DAVID HALIVNI

Columbia University

TO THE EDITOR:

The essays of Rabbi Emanuel Feldman on William B. Helmreich's *The World of the Yeshiva* and Dr. Lawrence Grossman's "Lernen without Learning" (*Tradition* 21:4) examine two studies of two Orthodox populations that are engaged in Torah study. Helmreich's volume examines the phenomenon of learning and integration in a yeshiva, and Samuel C. Heilman's *People of the Book* describes adult study groups. Both reviewers place a premium on "yeshiva" learning as an ideal. While this bias may be religiously justified, it obscures the phenomenon revealed by these two studies. Dr. Grossman argues that "one does not have to be an unreconstructed Litvak

to appreciate that traditional Jewish learning emphasizes cognitive understanding above all else." But Heilman's study argues that for *folk religion* study, this is simply not the case. For the *hevrusas*, it is the experience rather than the cognitive learning that keeps the groups together.

Helmreich's study of the classical Yeshiva in America reveals that more attention is given to the fit and gifted scholar than to the undistinguished student. Perhaps cognitive learning is not the only ideal of the *Yeshiva Gedolah*, either.

In point of fact, the Yeshiva is designed to create a *ben Torah*, a Jewish personality committed to living an exemplary moral, religious, and disciplined

life. It creates a particular kind of *ben Torah*: usually but not exclusively engaged in some variant of *Brisker Torah*. For those not capable of creative learning, it teaches its students how to engage in the self-study that will make for a *learning* if not *learned Jew*. Given the fact that only an elite within the Yeshiva is given extra attention, one must concede that there are two *de facto* tracks of education, even within the *Yeshiva Gedolah*.

In addition to the analysis common in the *Yeshiva Gedolah*, I reckon two other types of Torah learning: normative *pesaq* and historical scholarship. With the exception of the *Shulhan Arukh* studies which are required for ordination, the classical Yeshiva is not overly concerned with normative *pesaq*. The *poseq*, or legal authority, is certainly trained in Talmudic exegesis, but must develop competency in the scope and methodology of Codes and Responsa. This requires a different focus than classical Talmudic studies; the *lamdan* (learning scholar) and *poseq* (legal decisor) do different things and have different concerns, for they address different if overlapping audiences. A third approach to elite religion learning is historical scholarship. This approach is used at Bar Ilan University and at Yeshiva University's Bernard Revel Graduate School; it is applied by Professor Isador Twersky at Harvard University, and by other observant Judaic Studies scholars who are trained both in classical Talmudic methodology and in secular university formats. While the *poseq's* aim is to *prescribe*, the historical scholar and *yeshiva lamdan* *describe*, albeit in different fashions, the nature of Torah and Jewry. All three groups are *creative*, for they blaze trails, they encourage independence, and are committed to growth in their studies. Following Rav Soloveitchik's *Halakhic Man*, they create models of Torah and for this reason, they represent *elite* religion in their learning.

Heilman's *lernen* is not learning; it is not essentially cognitive (although it

clearly has cognitive elements), but emotional. The enterprise of *lernen* enables the layman to capture, in lay terms, the communal religiosity of *learning*. It enables, through rituals well described by Heilman, its practitioners to participate in the sacred events, ideas, and experiences of the ideal world created by the Brisker Torah scholar. By reviewing the rules of sacrifice, the lay student recaptures the ceremony and sanctity of what our ancestors experienced. Many if not most yeshiva graduates *lern* more than they *learn* upon leaving the yeshiva, for the pressures of earning a living are very great and exhaust even most diligent students. But by *lernen*, the layman, or folk religion practitioner, is enabled to participate in the great enterprise of Torah.

In the morning Torah blessings, there are two versions of one blessing. One reading praises God who sanctifies Israel with the command "*la'asoq be-divrei Torah*," to be occupied with the enterprise of Torah study; another version simply reads "*al divrei Torah*," for having words of Torah. Neither version *requires* mastery; both require effort. Not every Jew participates in elite religion, or creative learning; every religious Jew must review the sacred tradition as a religious as well as cognitive obligation. For the *Ish ha-Halakhah*, the cognitive aspect is primary; for the layman and average student, the experiential dimension must be emphasized. Elite religion learning is involved in *discovery*; popular religion *lernen* emphasizes *recovery*. In *lernen*, the folk religion Jew is enriched by the learning of the scholar. This relationship should be symbiotic rather than adversarial, for both groups are engaged in the *mitsvah* of *talmud Torah*.

(RABBI) ALAN J. YUTER
Spring Valley, N.Y.

TO THE EDITOR:

I wish to express gratitude to Shalom Carmy for his moving, indeed,

loving, exposition of synthesis, as the term is used in the contemporary Orthodox context. Carmy's article is the most clear, cogent, and effective formulation of the concept that I have ever read.

I should like to make one point unstated by Carmy, but which I take to be inherent in his position. In making my point, I hope to indicate why the argument between—indeed, the terminological formulation of—"right" and "left" in Orthodoxy is largely misleading and (aside from aiding in handy, undifferentiated sociological discourse) useless. Permit me to back into this.

Carmy rightly observes that the bogeyman of modern Orthodoxy—"compartmentalization"—can plague the "right-wing" Orthodox just as it can plague the modern Orthodox. Ironically, then, the two camps can live similarly defective Jewish lives, dividing their Torah from significant segments of their activity. Rather than integrating all that they do for the purpose of enhancing themselves as "God-serving personalities" (as Carmy puts it), they divide their service of God off from one or another significant arena in their lives, such as commerce or interpersonal relations. Now, I should like to point out that precisely the converse is also true, namely, that "integration" is an assumed watchword of the "right" as well as of the "left," that the two camps can live similarly exemplary Jewish lives, infusing their various significant activities with Torah. The reason why this is so infrequently noticed is because "integration" (or synthesis) is mistakenly given an objective rather than a subjective connotation—a pitfall that Carmy wisely avoids. He writes:

If one's involvement in secular culture contributes to the integration of one's life, i.e., if it coheres well with one's basic commitment to God, one can speak of synthesis. If, to the contrary, one's activities do not contribute to the integration of one's existence as a God-serving

personality, then those activities are not synthesis-enhancing.

Let us think through this definition. What it says is that the issue in legitimizing, or deligitimizing, secular activity in an Orthodox context entails not mainly an assessment of the inherent value, or destructiveness, of secular activity. The critical focus in defining an integrated Jewish personality is not that which is integrated into (or compartmentalized alongside of) the Jewish personality. The critical focus is the personality itself: what it does, how it works. The critical process is not in the evaluation of the Jewish value (or lack thereof) inherent in the object to be integrated, be it a book of philosophy or a vacation on the beach. The critical process is in the Jewish integrity with which that object is selectively absorbed into the Jewish personality. Obviously, the process will entail an evaluation of the Jewishness of the object, but the process itself has as its center the Jewish mind and soul, constantly active in self-critical analysis of whether any particular object nourishes or soils "one's existence as a God-serving personality."

Once the critical locus of living as a Jew is properly identified—and that locus is the Jew in his learning and living of Torah—then the essential question in synthesis becomes not whether to undertake secular studies, or some other secular activity; no, not this at all. The essential question becomes: What—for whatever reason, nature or nurture—already exists in one's mind and soul? What exists there psychologically, ideationally? What does one know? What is one doing? What has one been exposed to? With what—willingly or unwillingly—must one grapple in order to integrate one's life as a Torah Jew; that is, what is the raw material with which one must grapple in conjunction with the teachings and behavior patterns of Torah in order to be coherent in one's basic commitment to God?

Now, there are some of us who, for whatever reason, bring to our Torah

studies a rather long and complicated list of ways of secular thinking formed by exposure to a variety of secular activities and modes of thought. There are others of us who, for whatever reason, bring a rather short list. *Each Orthodox Jew's purpose is not to tell the other Jew to change his list* (which in any case is an impossibility), *but to work with the list that is his own heritage*. As Rabbi Moshe Hayyim Luzzato put it so succinctly, in what is probably the most quoted line in *musar* literature, "The foundation of piety and the root of perfect service of God is that it become both clear and certain to a person what is his duty in his world." This is the subjective element in the service of God to which Carmy referred. On this line of thinking, there should be no sense of disjointedness in personal relationship between "modern," secularly educated Jews, and "unmodern," nonsecularly educated Jews, provided that their essential aspiration and activity are the service of God; provided, in other words, that for both types of Orthodox Jews their secular education or ignorance become not polemical tools, not mutual whips, but simply the essence of the self as it stands before God and His commandments.

In this perspective, "right" and "left" in Orthodoxy mean precisely nothing. And for those "modern" readers who think that I am merely mouthing a new variation of a tolerance that is not reciprocated, I can only respond (a) with sadness at the paucity of their will truly to be open, to step into an Orthodox world with different trappings; and with (b) autobiographical testimony to the eye-opening consequences of the endeavor. Perhaps paradoxically, perhaps not, when I was working on my doctoral thesis on the thinking of Rabbi Israel Salanter—a project undertaken at Brandeis University and which, in book form, later won an Academic Book of the Year award from *Choice*—I found considerably

more interest and help among "right" Orthodox Jews than "left" ones. And since I have tried to make an argument here about the inappropriateness of that terminology, let me reformulate the point: I found a greater critical openness to looking with care and exactitude at the writings of the major Orthodox, psychological thinker in the modern period among Jews whose own struggle was to become integrative, God-serving personalities than among those Orthodox Jews whose mind and soul were preponderantly occupied elsewhere.

The major reason why "modern Orthodoxy" (or "centrist Orthodoxy"; fill in your favorite sociological descriptive) is so little respected by different kinds of Orthodox Jews is much less because of what modern Orthodoxy says it wants to be than because of what it is. Right now, for the most part it isn't what it says it is. It isn't what it says it wants to be. It should be what Shalom Carmy articulated so passionately: an attempt to form "a God-serving personality."

No doubt, there are Orthodox Jews who believe that secular education for Orthodox Jews is wrong. Period. But the gap between this position and its opposite is not so terribly wide when it measures a distance between two different individuals who sense each other to be authentically in search of *yir'as shamayim*. (And, by the way, when that is the case, it is not so difficult for either individual to locate a *posek* who properly hears a *she'elah*.) The gap is wide when either side works simply from a routinized ideological position, in which fine phrases are spun together but to which there is little underlying depth of *avodas Hashem*. It was the seminal contribution of Shalom Carmy's article to refocus the discussion on *avodas Hashem* as the primary criteria of defining shades of contemporary Orthodoxy.

(RABBI) HILLEL GOLDBERG