

Shnayer Z. Leiman is a member of our Editorial Board, and serves as Professor of Judaic Studies and Chairperson in the Department of Judaic Studies at Brooklyn College.

HAZON ISH ON TEXTUAL CRITICISM AND HALAKHAH — A REJOINDER

Introductory Comments

What is meritorious about Zvi A. Yehuda's essay entitled "Hazon Ish on Textual Criticism and Halakhah" (*Tradition*, 18, No. 2, Summer 1980) is that it clearly sets forth questions that all intelligent Jews should ask regarding Torah and textual criticism. Can archaeological discovery influence halakhah? If perchance archaeologists recovered a copy of the Torah written by Moshe Rabbeinu himself, would halakhah require Torah scribes to correct our Torah scrolls in the light of the original? Should one take seriously the variant readings of the text of the Talmud, and the numerous Gaonic interpretations of talmudic texts, that were lost for centuries only to be rediscovered in the Cairo Geniza¹ in this century? Should these readings and interpretations be adduced or ignored by rabbis concerned with the halakhic consequences of classical Jewish texts?

Unclear Ascriptions

Had Yehuda rested content with posing the above questions, or with a presentation of the *ipsissima verba* of Hazon Ish's resolution of these questions, *Tradition's* readership would have been indebted to him and the matter could have rested there. Yehuda's presentation, however, is much more elaborate and complex. Not more than 7 lines of the 9 page article are presented as verbatim quotations from Hazon Ish. Much of the essay is an alleged *summary* of what Hazon

I am most grateful for the advice proffered by my colleague Professor David Berger in the preparation of this article.

Ish said. Still more of the article reflects perorations by Yehuda in response to issues raised or comments made by Hazon Ish. In all fairness to Yehuda, occasional attempts were made by him to distinguish Hazon Ish's views from his own (as on page 174: "I did not hear it specifically from Hazon Ish"; pages 174-175: "this idea, too, I never explicitly heard from Hazon Ish"; and page 175: "this is my own, not attributable to Hazon Ish"). Nonetheless, for much of the article one doesn't know when Hazon Ish ends and where Yehuda begins. Thus, for example, the last five pages of the article are introduced by: "Halakhah dictates, said Hazon Ish, . . ." (p. 175 bottom), but it is quite obvious—for reasons that will be adduced below—that much of the material in those pages originated with Yehuda. I suspect that even source analysis will not enable us to uncover precisely what is to be ascribed to Hazon Ish and what to Yehuda. Such ambiguity frustrates the very purpose of Yehuda's study: the attempt to isolate and present Hazon Ish's views on textual criticism and halakhah.

Skewed Assertions

Various assertions strewn throughout the article are clearly ascribed to Hazon Ish, others less clearly so. These assertions need to be analyzed and evaluated in order to determine the likelihood of their authorship by Hazon Ish. Even if the assertions are correctly ascribed, it would be helpful for the reader to know whether they reflect normative rabbinic opinion or whether they reflect views unique to Hazon Ish. If they are incorrectly ascribed, it again would be helpful for the reader to know whether they reflect normative rabbinic opinion or whether they reflect views unique to Yehuda. I am persuaded that much that Yehuda attributes to Hazon Ish could not have been said by him, *at least as formulated by Yehuda*. In several instances, as will be shown below, Hazon Ish's published writings openly contradict what Yehuda asserts he heard from him. In other instances, it is inconceivable to me that any rabbinic authority would have formulated the assertions presented by Yehuda. Some specific samples follow:

1. 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 Moshe Rabbenu 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. . . . 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 purview of halakhah) is based on the rule of majority, not antiquity.²

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.³

Let us suppose, for heuristic purposes, that a demented Jewish scribe decided to write thousands of Torah scrolls, establishing new readings and a new majority. Would the new majority supplant the old one?⁴ Needless to say, it would not. Majority rule (*rov*) in halakhah governs only in instances of doubt (*safeq*). Where certainty reigns, majority rule plays no role. Indeed, tradition has it that R. Jonathan Eybeschütz (d. 1764) was once asked by a gentile sage: The Torah dictates that one must follow the majority (see Exodus 23:2). If so, should not all Jews convert to Christianity since Christians clearly outnumber Jews? R. Jonathan replied that majority rule prevails only in doubtful matters; Jews, however, are quite certain about the truthfulness of their religious beliefs.⁵

Specifically, Rashba (d. 1310)⁶ and Radbaz (d. 1573)⁷ ruled long ago that where the Talmud established the correct reading of the Torah text, and derived a halakhah from it, *one corrects the majority of Torah scrolls on the basis of the few*, even if the majority of Torah scrolls have dictated otherwise for centuries. In a conflict between established truth and majority, truth prevails. Thus, to use the hypothetical case presented by Yehuda, the *Sefer Torah* of Moshe Rabbenu would be most consequential for halakhah. It is precisely because no such scroll is extant that the rule of majority looms so large in the laws pertaining to the preparation of Torah scrolls.

Yehuda stresses that antiquity of the scroll and authority of the scribe (Moses himself) play no role in the halakhic process of determining matters masoretic. He has overlooked the many *rishonim* who indicate otherwise. Maimonides, for example, relied on the Aleppo Codex, prepared by Aaron ben Asher, as the *single* authoritative text for deciding various matters masoretic:

Since I have seen great confusion in all the Scrolls of the Law in these matters, and also the Massorettes who wrote special works to make known which sections are open and closed, contradict each other, according to the books on which they base themselves, I decided to write down here all the sections of the Law, closed and open, and the forms of the Songs, so as to correct the scrolls accordingly. The copy on which we based ourselves in these matters is the one known in Egypt, which contains the whole Bible, which was formerly in

Jerusalem (serving to correct copies according to it), and everybody accepted it as authoritative, for Ben Asher corrected it many times. And I used it as the basis for the copy of the Pentateuch which I wrote according to the Law.⁸

R. Meir Abulafia (d. 1244), aside from adducing the majority principle, writes that "I have sought out the corrected and precise texts, with accurate masoretic notes . . . and abandoned the more recent manuscripts in favor of the more antiquated and trustworthy ones."⁹ The list goes on and on.

What about Hazon Ish? Was he committed exclusively to the majority principle in textual matters and insensitive to other criteria in solving textual discrepancies? That this is certainly not the case is clear from his published writings. Hazon Ish, in a letter acknowledging at once the usefulness as well as the limitations of the Munich manuscript of the Babylonian Talmud, argues that one ought not emend the printed text of the Talmud on the basis of a reading found *only* in the Munich manuscript, for: (a) the majority principle eliminates minority readings, and (b) it may be that the Munich manuscript *was not considered trustworthy in antiquity*.¹⁰ Clearly for Hazon Ish the trustworthiness of a given manuscript plays a significant role in determining its usefulness.

2. 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.¹¹

This striking formulation cannot be squared with Hazon Ish's published writings. If taken literally, it would mean that all medieval authorities, such as R. Menahem Meiri (d.1316), whose writings and teachings for the most part were unknown for centuries, only to be rediscovered and published in the 19th and 20th centuries, are not authoritative for halakhah. One interesting sample of Hazon Ish's attitude will suffice for our purposes. The pivotal talmudic passage permitting (or, requiring) the use of a contraceptive device when halakhically warranted was, and continues to be, the focus of much rabbinic discussion. A strict constructionist approach bans most forms of contraception for most women; a permissive approach allows for more latitude in determining who may use a contraceptive device when.¹² Several 19th century authorities, including Rabbis Akiva Eger (d. 1837)¹³ and Moses Sofer (d. 1839)¹⁴, unaware of a permissive ruling by R. Solomon Luria (d. 1574)¹⁵ in a volume first published in Altona in 1739 and not widely distributed, sided with the strict constructionists. They explicitly ruled out precoital contracep-

tion in cases of danger to the mother, stating that they were unaware of any authority who permitted it. After Luria's position became more widely known, numerous 19th and 20th century halakhists reversed the nonpermissive ruling of the early 19th century authorities on the ground that the earlier authorities would themselves have ruled otherwise had they been aware of Luria's ruling.¹⁶ *Hazon Ish* cites Luria's ruling approvingly,¹⁷ but qualifies it somewhat *le-halakhah* in the light of the many authorities whose stance was more stringent than Luria's.

In his published letters, Hazon Ish responded as follows to a questioner who had sent him photographs of a newly discovered manuscript:

It is not my practice to take note of manuscripts, for we know not who wrote them . . . And it is well known that in halakhic matters one ought not *overly* rely on new discoveries, but rather one should rely upon the halakhic works that have been transmitted from one generation to the next without interruption.¹⁸

The qualifying adverb "overly" is unequivocal; Hazon Ish was not adverse to an occasional reliance on newly discovered material. Indeed, when the author could be identified—and his reliability as halakhist was assured (as in the case of the Luria ruling)—Hazon Ish welcomed the new discovery of ancient Torah.

3. 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*.¹⁹

In Second Temple days, three ancient *sefarim* were found in the Temple's *azara* (court; *Yerushalmi*, *Taanivot* 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*.²⁰

The author would have us believe that the *Sefer Torah* of Moshe Rabbenu is inconsequential for halakhah because it may be *pasul*. On the other hand, all Torah scrolls in existence were derived from three scrolls "probably none [of which] was *kasher*"! Such confusion can hardly be ascribed to Hazon Ish. More importantly, the terms *pasul* and *kasher* are irrelevant in discussions of textual criticism. The most authoritative medieval Torah texts (including the Aleppo Codex used by Maimonides) were *pasul*, i.e. not fit for public use in the synagogue.²¹ All that is significant in a discussion of textual criticism

is trustworthiness of text. May one rely on newly discovered Mosaic texts in order to decide such issues as spelling, *haser*, *male*, *qere*, *ketib*, *petuhot*, *setumot* and the like?

Attitude of Hazon Ish Toward Otzar ha-Geonim

Yehuda (pages 173-174) ascribes to Hazon Ish the view that B.M. Lewin's monumental *Otzar ha-Geonim* was unnecessary ("the old material, we have; the new, we don't need") and halakhically irrelevant. The impression that emerges from Yehuda's account is that Hazon Ish did not consult Lewin's *Otzar ha-Geonim*; and had he done so, he would not have considered its material authoritative. In fact, Hazon Ish did consult Lewin's *Otzar ha-Geonim* and cites its material as authoritative. As Hazon Ish explains in one of the cases where he cites *Otzar ha-Geonim*, although one ought not cite from manuscripts whose transmission through the generations has been interrupted, in this particular instance he does so because "it appears obvious that this responsum was authored by a *Gaon*."²² In any event, since *Otzar ha-Geonim* gathers together much material scattered throughout the *rishonim* (as opposed to *Geniza* manuscripts never before published), it comes as no surprise that Hazon Ish consulted what is clearly one of the most useful compendia of early rabbinica ever to appear in print.

Attitude of Hazon Ish Toward Textual Criticism of Rabbinic Texts

Much of Yehuda's treatment of textual criticism focuses on Bible. Very little is said about rabbinic texts, other than the fact that Hazon Ish was not enamored of *Geniza* discoveries and the possible halakhic consequences of such discoveries. But what about textual emendation of rabbinic texts in the light of *Geniza* discoveries? Could rabbinic texts be emended if reason alone dictated an appropriate emendation? Again, it is instructive to turn to Hazon Ish's published writings:

You sought to explain a *sugya* and to emend a talmudic passage in accordance with the reading of the Munich manuscript. Do you suppose, then, that the true sense of the passage eluded all the leading scholars from the period of the *rishonim* until today? And all because of one scribal error that led to a conflated text which misled all scholars? I will have none of it. The *rishonim* were prepared to lay down their lives on behalf of their manuscripts. God's providence hovered over them so that Torah would not be forgotten in Israel. When they set about to publish the Talmud, the leading sages of that generation were prepared to lay down their lives in order to produce a correct text. If on occasion we benefit from the manuscripts in that they clear up errors that

accrued throughout the generations, this provides no license to emend a text *that was approved by all our sages without the slightest doubt being raised*. Heaven forbid that we destroy!²³

To be sure, Hazon Ish did not look kindly upon textual emendation of rabbinic texts, but neither did he rule it out. Where there was support within the received tradition (e.g. from parallel texts), and reason dictated that a particular textual emendation was necessary and persuasive, Hazon Ish welcomed it. Particularly instructive is Hazon Ish's ingenious emendation of *Tosefta Parah 2:7* (ed. Zuckerman, p. 631), where he emends the text of the *Tosefta* against all known texts and versions.²⁴ It is perhaps not superfluous to add that Hazon Ish's attitude toward textual emendation of rabbinic texts is neither original nor anomalous. It follows the guidelines set down in the *Shulhan Arukh* and commentaries.²⁵

Shake Well Before Using

Several puzzling formulations in Yehuda's account, even if their content is correctly ascribed to Hazon Ish, need to be shaken well before using.

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.²⁶

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.²⁷

I could not locate precise parallels for either of these formulations in the published writings of Hazon Ish. If they reflect the view of Hazon Ish as heard by Yehuda, let it be noted that these formulations are daring and problematic. If Rabbi Akiva's *sefer torah* was not identical with Moshe Rabbenu's (and by implication contemporary biblical texts are certainly not identical with the Mosaic original), what does *Torah mi-Sinai* mean? What remains of the famous formulations of Maimonides²⁸ and R. Joseph Albo²⁹ that our Torah texts are precise copies of the text provided at Sinai?

The claim that accidents of history ("If the *rishonim* did not have the material and knowledge we now discover, this was the will of God") are bound up with the hand of God, and therefore recent discoveries are irrelevant for halakhah, would appear to be a non sequitur. As Yehuda himself notes (p. 175), consistency demands that the recovery of lost materials in this century also be viewed as the will of God. I am more concerned, however, with the possible abuses such deterministic assertions may lend themselves to. According to Yehuda (p. 180) it is the will of God that Jews venerate the biblical text of their generation. God apparently has no interest in establishing or maintaining the original masoretic text of the Bible. This, despite Hazon Ish's explicit assurance (see above, p. 307) that God's providence hovers over the sages so that Torah will not be forgotten in Israel. God's primary concern, apparently, is that Jews venerate the official halakhic text of Scripture in their generation, whatever form it may take. But why stop here? Surely by the same logic it must be the will of God that the biblical text assume a particular form in each generation. Nothing happens by accident. Such texts remain inviolate until some new accident of history influences the development of the text. Indeed, precisely such an argument has been put forward by several leading Jewish thinkers of the 19th and 20th centuries.³⁰ The problem with such textual determinism is that it renders all textual criticism obsolete. What on the surface appears to be human error may in fact be divine fiat. And attempts to recover revelation at Sinai cannot be done at the expense of revelation in the 20th century. In brief, the entire enterprise of textual criticism evaporates in the face of a theory of revelation via omission and error.

It would appear to be the better side of wisdom to admit that not *all* accidents of history are the will of God. Selden³¹ tells of the thousand Bibles printed in England in 1632 with the following verse: Thou shalt commit adultery. No one claimed that the printers' error was the will of God. The King's printers were fined 3000 pound sterling for their literary indiscretion. My point here is not that the emendation of biblical texts under ordinary circumstances is desirable or even permissible, but rather that a theory of textual determinism that mechanically elevates human error to divine fiat creates more problems than it solves.

Summary

When Yehuda's account of Hazon Ish's views on textual criticism is compared with Hazon Ish's views as they emerge from his published writings, it becomes apparent that the two accounts—despite

much overlap—differ. While Yehuda has succeeded in capturing the general thrust of Hazon Ish's approach to textual criticism, which is best described as cautious, he has not done justice to the fullness, variety, and precision of Hazon Ish's views. The discrepancies between the two accounts are best explained by assuming that Yehuda's formulations, perhaps more often than he intended, are his own and not necessarily those of Hazon Ish.

NOTES

1. See Paul E. Kahle, *The Cairo Geniza* (Oxford: Basil Blackwell, 1959), pp. 3–13.
2. Yehuda, p. 175 bottom.
3. Yehuda, p. 178 top.
4. The advent of printing, mentioned by Yehuda on page 177, is irrelevant to our question. The setting of the demented Jewish scribe could just as easily be placed in the 14th century, i.e. before the advent of printing.
5. See R. Elhanan Wasserman, *Qovez Maamarim* (Jerusalem: Yehuda, 1963), p. 15. For an earlier version of this anecdote, see R. David Meir Frisch, *Sheelot Uteshuvot Yad Meir*, Lvov, 1881, introduction. The question posed by the gentile sage was already raised in midrashic literature; see *Vayyigra Rabbah* 4:6, ed. M. Margulies, (Jerusalem: Merkaz, 1953), pp. 92–93.
6. *Sheelot Uteshuvot ha-Rashba ha-Meyuhasot le-Ramban*, Warsaw: 1883, §232. The printed text is corrupt and needs to be corrected in the light of the version cited by Radbaz (see next note).
7. *Sheelot Uteshuvot Radbaz* (New York: Ozar Ha-Sefarim, 1967), vol. 4, §101.
8. *Code: Ahavah, Hilkhot Sefer Torah* 8:4. The translation is taken from M. Goshen-Gottstein, "The Authenticity of the Aleppo Codex," *Textus* 1 (1960), p. 18, n.1.
9. *Masoret Seyag la-Torah* (Firenze: 1750), introduction.
10. *Qovez Iggerot* (Jerusalem: S. Greineman, 1955), vol. 1, p. 59.
11. Yehuda, p. 172 bottom.
12. In general, see David M. Feldman, *Birth Control in Jewish Law* (New York: New York University Press, 1968), pp. 169–226.
13. *Teshuvot Rabbi Akiva Eger* (Jerusalem: Lewin-Epstein, 1950), §71.
14. *Sheelot Uteshuvot Hatam Sofer* (New York: Grossman, 1958), *Yoreh Deah*, §172.
15. *Yam Shel Shlomo* (New York: Friedman, 1968), vol. 1, *Yevamot* 1:8.
16. See e.g., R. Shalom Moshe Gagin, *Yismah Lev* (Jerusalem: 1878), *Yoreh Deah*, §4; R. Shnayer Zalman Ashkenazi [of Lublin], *Sheelot Uteshuvot Torat Hesed* (Jerusalem: 1909), vol. 2, §44; and R. Zvi Aryeh Yehuda Yaakov Meisels, *Sheelot Uteshuvot Hedvat Yaakov* (Pietrkov: 1919), *mahadura tenina*, §37.
17. *Hazon Ish: Even ha-Ezer* (Bnei Braq: ha-Tehiya, 1958), §37:2.
18. *Qovez Iggerot* (Jerusalem: S. Greineman, 1956), vol. 2, p. 37.
19. Yehuda, p. 178.
20. Yehuda, p. 176. It is not apparent to me what led the author to assume that probably all were *pasul*. Since no previous collation of texts is purported to have taken place, all may well have been *muhzagim*. Only after the majority readings were established and recorded could the minority readings be declared *pasul*.
21. Cf. *Shulhan Arukh: Yoreh Deah* 274:2 which requires that all Torah scrolls be copied from previous copies. But as is evident from R. Shlomo Ganzfried, *Qeset ha-Sofer* (Bnei Braq: Berezani, 1961), §5, it suffices to copy from a *humash*, i.e. a text not *kasher* for purposes of public reading of the Torah during services.
22. *Hazon Ish: Orah Hayyim* (Bnei Braq: S. Greineman, 1973), §39:6. Cf. the elaborate

- treatment of this gaonic responsum in R. Yaakov Kanyeviski, *Shiurin Shel Torah* (Jerusalem: Sifra, 1956), p. 30 ff. and p. 19.
23. *Qovez Iggerot*, vol. 1, p. 59.
 24. *Hazon Ish al ha-Rambam* (Bnei Braq: S. Greineman, 1959), p. 532. For a different view, see R. David Pardo, *Hasdey David* (Jerusalem: Yad Harav Herzog, 1971), vol. 4, part 2, pp. 108-109.
 25. See Yoreh Deah 279:1 and cf. R. Yaakov Castro, *Erekh Lehem*, (Constantinople: 1817), *ad loc.*
 26. Yehuda, p. 177.
 27. Yehuda, p. 175.
 28. Maimonides, *Commentary on the Mishnah*, Sanhedrin 10:1, ed. Y. Kafih (Jerusalem: Mosad Harav Kook, 1965), vol. 2, p. 143; cf. *Iggeret Teman*, ed. A.S. Halkin (New York: American Academy for Jewish Research, 1952), pp. 39-41. See the parallel formulation in Maimonides' contemporary, R. Abraham Ibn Daud, *ha-Emunah ha-Ramah*, ed. S. Weil (Frankfurt am Main: 1852), p. 80.
 29. "The Torah which we have today and which has been handed down to us by unbroken tradition from father to son is the same that was given to Moses on Sinai, without any change." See R. Joseph Albo, *Sefer ha-Ikkarim*, ed. I. Husik (Philadelphia: Jewish Publication Society, 1948), vol. 3, chapter 22, p. 195.
 30. Regarding rabbinic texts, see the remarks ascribed to R. Moses Sofer, as well as the attitudes of numerous other 19th century rabbinic authorities, cited by Hayim Bloch in his note to R. Yekuthiel Y. Greenwald's letter of approbation, *Hekhal le-Divrey Hazal Upitgameyhem* (New York: Pardes Publishing House, 1948), p. 9. Regarding the biblical text, see the various references cited by S. Rosenberg, "Heqer ha-Miqra be-Mahshavah ha-Yehudit ha-Datit ha-Hadashah," in *ha-Miqra ve-Anahnu* ed. U. Simon (Tel Aviv: Devir, 1979), pp. 86-119. Note especially p. 109, n. 46.
 31. John Selden, *Table Talk*, ed. S.W. Singer, London, 1860, p. 108.