Masorah and Halakhah: A Study in Conflict

SID Z. LEIMAN
Brooklyn College

The recovery of the Aleppo Codex some 35 years ago, cause for much celebration in academic circles, has had a less than salutary effect in rabbinic circles. Initially ignored by rabbinic scholars, its recent publication in a facsimile edition as well as the publication of several Hebrew Bibles based on its text have led to vigorous, even acrimonious rabbinic debate. Replete with lawsuits and bans, this debate has involved leading rabbinic authorities in Jerusalem and Bnei Braq.[1] While the details of the current rabbinic conflict need not detain us, it is but the latest manifestation of an age-old conflict between the masoretic enterprise and the halakhah. Modern scholarship has taken little note of this conflict and, more importantly, of its implications. In this study I will attempt to delineate some of the contours of this conflict and to spell out some of its implications for the history of the transmission of the biblical text.

Masoretic Bibles and the halakhah live in a permanent state of tension. The origins of the ascendancy of Masoretic Bibles over and against halakhic teaching are shrouded in obscurity. Certainly with the appearance of Ben Asher manuscripts of the Hebrew Bible in the ninth century, the ascendancy was well on its way. The Cairo Codex of the Prophets, for example, dated by its colophon to 895, presents the following order of the prophetic books: Joshua, Judges, Samuel, Kings, Isaiah, Jeremiah, Ezekiel, and the Twelve Minor Prophets.[2] The

1. See, e.g., D. Yizhaqi, נביאי אמת וצדק (Bnei Braq, 1995); anonymous, קנאת סופרים (Jerusalem, 1995); and M. Davidovitz, קונטרס דעת תורה (Jerusalem, 1995).

2. Some scholars date the Cairo Codex to the eleventh century or later, claiming that its colophon was copied from an earlier biblical manuscript in order to enhance the value of the codex. See, e.g., M. Glatzer, "מלאכת הספר של כתר ארם צובה והשלכותיה," *Sefunot* 19 (1989) 167–276, esp. pp. 250–59.

Aleppo Codex reflects the same ordering of the prophetic books.[3] Yet a *baraita* in the Babylonian Talmud rules that the correct ordering of the latter Prophets is: Jeremiah, Ezekiel, Isaiah, and the Twelve Minor Prophets.[4] No dissenting view is preserved in rabbinic literature. Moreover, the standard codes of Jewish law—Maimonides' *Code*, R. Jacob b. Asher's *Tur*, and R. Joseph Karo's *Šulḥan ʿArukh*—all rule according to the ordering of the Babylonian Talmud.[5] Observant Jews claim that they scrupulously follow the rulings of these codes. Yet all printed Bibles, and the majority of extant manuscripts, follow the Masoretic ordering rather than the halakhah.[6]

An even more interesting manifestation of the tension between Masoretic Bibles and the halakhah relates to the text (rather than to the ordering of the books) of the Hebrew Bible, and to this issue I devote the remainder of this study. It is an established fact, historically and halakhically, that early rabbinic texts of the Hebrew Bible differed from the Masoretic texts that emerged in the medieval period. By "historically" I mean that biblical scholars, engaged in lower criticism, and rabbinic scholars, expert in *jüdische Wissenschaft*, have adduced considerable and compelling evidence in support of the claim just mentioned. Suffice it to note the studies of V. Aptowitzer, S. Lieberman, D. Rosenthal, and Y. Maori; and especially the Mifʿal ha-Miqra's critical edition of Isaiah under the direction of M. Goshen-Gottstein.[7] By "halakhically" I mean the numerous rabbinic authorities expert in halakhah who openly acknowledged הש״ס שלנו חולק על הספרים שלנו 'there are discrepancies between the biblical citations in our texts of the Talmud and our biblical manuscripts'. These include the Tosafists (who introduced the phrase just cited), R. Meir Abulafia (d. 1244), Rashba (d. ca. 1310), Ritba (d. ca. 1330), R. Judah Mintz (d. 1506), and more

---

3. Ibid., 170.

4. *b. B. Bat.* 14b.

5. Maimonides, *Code*, ספר אהבה, הלכות ספר תורה 7:15; *Tur*, יורה דעה §283; and *Šulḥan ʿArukh*, יורה דעה §283:5.

6. Even more pronounced is the discrepancy between the Masoretic Bibles and the halakhah regarding the ordering of the books of the Writings. In general, see C. D. Ginsburg, *Introduction to the Massoretico-Critical Edition of the Hebrew Bible* (London: Trinitarian Bible Society, 1897; reprint: New York: Ktav, 1966) 1–8. Still another discrepancy between the Aleppo Codex (specifically) and halakhic teaching relates to the number of lines in the Song of Moses (Deut 32:1–43). The Aleppo Codex—and in its wake, Maimonides—allots it 67 lines, whereas classical halakhic teaching knows only of a 70-line Song of Moses. See the discussion in M. Goshen-Gottstein, "The Authenticity of the Aleppo Codex." *Textus* 1 (1960) 17–58.

7. V. Aptowitzer, *Das Schriftwort in der rabbinischen Literatur* (Vienna: Alfred Holder, 1906–15; reprint: New York: Ktav, 1970); S. Lieberman, *Hellenism in Jewish Palestine* (New York: Jewish Theological Seminary of America, 1962); D. Rosenthal, "על דרך טיפולם של חז״ל בחילופי ספר יצחק אריה זליגמן in נוסח במקרא" (Jerusalem, 1983) 2.395–417; Y. Maori, "מדרשי חז״ל כעדות עיוני מקרא ופרשנות in לחילופי נוסח במקרא" (Ramat-Gan, 1993) 3.267–86; and M. Goshen-Gottstein (ed.), ספר ישעיהו (Jerusalem, 1995).

recently, R. Akiba Eger (d. 1837) and R. Moses Sofer (d. 1839).[8] If I bother to adduce these "historical" and "halakhic" witnesses at all, it is because a minority view, perhaps best exemplified in the twentieth century by R. Ḥayyim Heller (d. 1960), insists that the early rabbinic texts of the Hebrew Bible and the Masoretic Text (henceforth: MT) are one and the same.[9] The minority view maintains that many of the apparent differences are exegetical in nature and in no way reflect conflicting readings of the biblical texts themselves. Other apparent differences are explained away as scribal errors in the Talmud. As noted by Y. Maori, the minority view has served a useful purpose: it has forced all scholars to sharpen their methodological tools.[10] Nonetheless, it remains a minority view and rightly so.

Two witnesses, §§1 and 2,—both with halakhic import—support the majority view. Following each passage, I list the MT of the verses cited in it.

§1. *b. Baba Batra* 9a:

אמר רב הונא בודקין למזונות ואין בודקין לכסות. אי בעית אימא קרא ואי
בעית אימא סברא, אי בעית אימא סברא האי קא מבזי והאי לא קא מבזי, אי
בעית אימא קרא הלא פרוש לרעב לחמך בשי״ן כתיב, פרוש והדר הב ליה.

R. Huna said: Applicants for food are investigated but not applicants for clothes. This rule is based, if you like, on Scripture, or if you prefer, on common sense. "If you prefer, on common sense," for the applicant for clothes is suffering humiliation; not so the applicant for food. "If you like on Scripture," in the verse *Is it not to share your bread with the hungry* (Isa 58:7), the word *paros* is written with a *shin*, as if to say, investigate and then give it to him.

MT: הלוא פרס לרעב לחמך (Isa 58:7; with *samekh*)

§2. *b. Ḥullin* 65a:

אלא מעתה את כדר לעומר דפסק להו ספרא בתרי הכי נמי דתרתי שמי נינהו,
אמרי התם בשתי תיבות פסיק להו בשני שיטין לא פסיק להו, אבל הכא אפילו
בשני שיטין נמי פסיק להו.

8. Tosafot to *b. Šabb.* 55b; R. Meir Abulafia, מסורת סייג לתורה (Florence, 1750) 34a and 55a, and compare the Abulafia citation in M. Lonzano, שתי ידות (Venice, 1618), section אור תורה, 6b; Rashba and Riṭba (see below, §§7 and 9); R. Akiba Eger, גליון הש״ס to b. Šabb. 55b (printed in the margin of the Vilna editions of the Babylonian Talmud); R. Judah Mintz, שאלות ותשובות (Munkacz, 1898) §8; R. Moses Sofer, שו״ת חת״ם סופר (Jerusalem, 1982) 1.52. Cf. חת״ם סופר לקרטי שו״ת (London, 1965), יורה דעה §35.

9. Ḥ. Heller, על תרגום השבעים בקונקרדנציה היכל הקדש (New York, 1943) 54–67, and throughout his published writings.

10. Maori, "מדרשי חז״ל," 277.

But according to this, it follows that Chedar Laomer (Gen 14:1, 4, 5, 9, 17), since the scribe has divided it into two words, represents two distinct names? I reply, in the case of Chedar Laomer while he divided it into two words, he did not place them on separate lines, but in the case of Bat ha-Ya^{c}anah he also placed them on separate lines.

MT: כדרלעמר (Gen 14:1, 4, 5, 9, 17; appears as one word)

The talmudic readings in both instances are impeccable, and although significant talmudic variants appear in some manuscripts and commentaries, Rashi and a host of other commentaries had the readings as printed above.[11] Moreover, various extant Masoretic manuscripts preserve precisely these spellings of the biblical words, that is, the same spellings as those that appear in present editions of the Talmud.[12] In the case of §1, a Babylonian Amora derived a halakhah from the spelling in Isa 58:7. In the case of §2, the Talmud itself issues no official ruling on the spelling of Chedarlaomer, but later authorities would derive a halakhah from this passage relating to the proper way of recording names in a divorce document.[13] Although the Talmud assumes that Chedarlaomer is properly written as two words, in all Torah scrolls today it is written as one word. It is at least interesting to note that according to the *Šulḥan ʿArukh*, any two consecutive words appearing together as one render a Torah scroll unfit for public use.[14] If you like, from a talmudic perspective (given §2), all present Torah scrolls may be unfit for public use! In any event, the halakhic teaching of §1 is not normative; and §2 is largely informational, that is, it makes no specific halakhic claims. For these reasons, they are more interesting than problematic. Far more problematic are §§3–6, but a preliminary remark is in order before we list and analyze those passages.

The halakhic stake in establishing the correct text of the Hebrew Bible, and especially of the Torah, is enormous. According to *m. Menaḥ.* 3:7 and the ensuing discussion at *b. Menaḥ.* 30a, and according to all codes of Jewish law, a Torah scroll with a mistaken letter, or with an additional letter, or lacking a letter, is unfit for public use.[15]

---

11. For talmudic variants of §§1 and 2, see R. Rabbinowicz, דקדוקי סופרים (New York, 1960) ad *b. B. Bat.* 9a and *b. Ḥul.* 65a. Cf. R. Meir Abulafia, יד רמ"ה (New York, 1946) ad *b. B. Bat.* 9a. See also S. Abramson (ed.), תלמוד בבלי: מסכת בבא בתרא (Jerusalem, 1958) 13; S. Mirsky (ed.), שאילתות דרב אחאי (Jerusalem, 1964) 3.15 (= שאילתא §41); S. Lieberman, "הערות למאמרו של" in Y. Kutscher (ed.), ערכי המילון החדש לספרות חז"ל (Ramat-Gan, 1972) 102; and the discussion in Maori, "מדרשי חז"ל." 282.

12. See, e.g., Ginsburg, *Introduction*, 200–205; and idem (ed.), תורה נביאים כתובים (London: British and Foreign Bible Society, 1926) to Gen 14:1 and Isa 58:7. Cf. Goshen-Gottstein (ed.), ספר ישעיהו, ad Isa 58:7.

13. *Šulḥan ʿArukh*, אבן העזר §129:32.

14. יורה דעה §274:4.

15. See, e.g., *Šulḥan ʿArukh*, יורה דעה §275:6. The unsettled state of the text of biblical manuscripts and Torah scrolls in the Medieval Period led to a partial softening of the rules governing

§3. *b. Sanhedrin* 4a:

דתנן בית שמאי אומרים כל הניתנין על מזבח החיצון שנתן במתנה אחת כיפר,
שנאמר ודם זבחיך ישפך, ובחטאת שתי מתנות. ובית הלל אומרים אף בחטאת
שנתן במתנה אחת כיפר. ואמר רב הונא מאי טעמא דבית שמאי, קרנות קרנות
קרנות הרי כאן שש, ארבע למצוה ושתים לעכב. ובית הלל אומרים קרנות
קרנת קרנת הרי כאן ארבע, ג' למצוה ואחת לעכב.

For we learned: Bet Shammai maintains if only one sprinkling of the
blood of sacrifices that is to be sprinkled on the outer altar was applied,
atonement is effected, as it is said: *the blood of your sacrifices shall be
poured out* (Deut 12:27). In the case of a sin offering, however, two
sprinklings are required. Bet Hillel maintains that even in the case of
a sin offering, one sprinkling effects atonement. And R. Huna said:
What is the reason for Bet Shammai's view? It is the three occurrences
of *qarnot* (horns) in the plural form, totalling six sprinklings, four of
which are required initially, but only two of which are indispensable.
Bet Hillel, however, maintains that *qarnot* occurs once in the *plene*
form, and twice defectively, totalling four sprinklings, three of which
are required initially, but only one of which is indispensable.

MT: קרנת (Lev 4:25); קרנת (Lev 4:30); קרנת (Lev 4:34) (all three are
written defectively)

§4. *b. Sanhedrin* 4b:

ודכולי עלמא יש אם למקרא, והתניא לטטפת לטטפת לטוטפות הרי כאן
ארבע, דברי רבי ישמעאל. רבי עקיבא אומר אינו צריך, טט בכתפי שתים פת
באפריקי שתים.

Do all then agree that the reading tradition is determinate? Has it not
been taught: *le-totafot* (frontlets) occurs three times in the Torah, twice
defectively, and once *plene*, totalling four (sections that are to be in-
serted into the phylacteries), so R. Yishmael. But R. Akiba maintains
that there is no need for this derivation, for *tat* means "two" in Coptic,
and *pat* means "two" in African, hence the four sections.

MT: ולטוטפת (Exod 13:16); לטטפת (Deut 6:8); לטוטפת (Deut 11:18)
(all three are written defectively)

---

plene and defective spellings. While an error in plene and defective spelling rendered a Torah scroll
unfit for public use *ab initio*, if the error was discovered during a public reading—and it did not
affect the meaning or pronunciation of the word in question—the Torah scroll did not have to be
replaced immediately. The error, however, would have to be corrected in due course by a scribe.
See, e.g., *Šulḥan ʿArukh*, אורח חיים §143:4.

§5. *b. Qiddušin* 66b:

בעל מום דעבודתו פסולה מנלן, אמר רב יהודה אמר שמואל דאמר קרא לכן
אמור הנני נותן לו את בריתי שלום. כשהוא שלם ולא כשהוא חסר. והא שלום
כתיב, אמר רב נחמן וי"ו דשלום קטיעה היא.

How do we know that the temple service of a priest with a blemish is
invalid? R. Judah said in Samuel's name: Because Scripture says: *Say,
therefore, "I grant him My pact of friendship"* (Num 25:12), only
when he is whole, not when he is blemished. But the text reads *šalom*
(friendship)! R. Nahman explained: The *waw* of *šalom* is truncated.

MT: Truncated *waw* in the word *šalom* (Num 25:12) was lacking in
most Torah scrolls and manuscripts of the medieval period.

§6. *b. Niddah* 33a:

אלא הנוגע בכל אשר יהיה הזב תחתיו, ומאי ניהו עליון של זב, והנושא נמי
יטמא, ומאי ניהו נישא. מאי מעמא, והנשא כתיב.

Rather, it must mean: Whoever touches anything the person with the
discharge was under. What is meant by that? The cover above the
person with the discharge. Then one who carries over a person with a
discharge should also be rendered impure! And what is meant by that?
That which is being carried. Why? Because the text reads *ve-hannose*
defectively (which can also be read *ve-hannissa*, i.e., 'and that which
is carried').

MT: והנושא (Lev 15:10; written *plene*)

§§3–6 present instances where specific halakhot were derived from the
early rabbinic text of the Hebrew Bible, and these halakhot were declared
normative; nevertheless, the MT has rejected the early rabbinic readings. These
instances create the anomalous and paradoxical situation whereby the rabbis
derived a halakhah from a specific spelling of a word in the Torah, and the
halakhah remains operative, yet if a scribe writes a Torah today with that spe-
cific spelling, it is unfit for public use! The dilemma becomes even more pro-
nounced when one examines the underpinning of the legitimacy of the MT
from a halakhic perspective. The MT, after all, differs not only from the early
rabbinic text of the Hebrew Bible; Masoretic texts differ from each other. What
the rabbis said was: In cases of doubt, follow the reading of the majority of
manuscripts.[16] Thus, even among the Masoretic texts, when in doubt, the major-

16. While no such rule is enunciated in the talmudic sources, the practice is attested. See, for
example, the sources cited in S. Talmon. "The Three Scrolls of the Law that Were Found in the
Temple Court." *Textus* 2 (1962) 14–27. For the enunciation of the rule in medieval sources, see
§§7, 11, and 15 below. Compare the commentary mistakenly ascribed to the Ran (d. ca. 1375) ad
b. Sanh. 4a, ד"ה קרנת קרנת קרנות, where the rule is ascribed to מסכת סופרים.

ity reading was halakhically decisive. But where the rabbis derived a halakhah from a specific spelling of the biblical text, by definition the text is not in doubt. On what grounds, then, could the MT reject the early rabbinic readings? We proceed to an examination of §§3–6.

§3 discusses the sprinkling of blood on the horns of the altar. At *m. Zebah.* 4:1, the schools of Shammai and Hillel disagree regarding the minimum number of acts of sprinkling required when bringing a sin offering. At *b. Zebah* 37b, Rav Huna explains that the dispute turns on the implications of the spelling of the word קרנות at Lev 4:25, 30, and 34. Note especially that the two schools agree concerning the spelling of the three words: two occurrences are defective, one occurrence is *plene*.[17] They disagree only with regard to the implications of the spelling. Now the Mishnah incorporates the ruling of Hillel's school, a halakhic ruling derived from the peculiar spelling of the three words. In the twelfth century, Maimonides codified this very law, favoring Hillel's school over Shammai's.[18] One would then expect the medieval manuscripts to reflect the spelling of קרנות as embodied in the Talmud. To our chagrin, we discover that the Masoretic manuscripts, as well as the Masoretic notes, overwhelmingly agree that the word קרנות in Lev 4:25, 30, and 34 is spelled defectively in all three instances.[19] Apparently the Masoretes were oblivious to the undisputed spelling of the three words in the Talmud, spellings that the Talmud itself puts forward as the basis of a normative halakhic ruling. In this instance, of course, the halakhah is operative only in theory, since sacrificial offerings were generally not offered after the destruction of the Second Temple.

§4 provides the underpinning, according to R. Yishmael, for the four sections that are inserted in phylacteries. The word טוטפות occurs three times in the Torah. The first two are defective; the third is plene. The occurrences spelled defectively, read as singular forms, count for one section apiece. The occurrence spelled plene, read as a plural form, counts for two sections, hence a total of four sections. Again, the Masoretic manuscripts and Masoretic notes are virtually unanimous: in all three instances, טוטפות is spelled defectively.[20] Yet the halakhah, of course, remains: phylacteries contain four sections.

---

17. In §3, when delineating the view of Bet Shammai, the Talmud spells all three words plene. Since Masoretic vocalization was not applied by the redactors of the Talmud to the Talmud, this was their way of indicating that for Bet Shammai the reading tradition (that is, all three words are read as plurals) was determinate. In fact, the redactors of the Talmud assume that Bet Shammai's spelling of the three words was precisely that of Bet Hillel; otherwise, they could not ascribe the disagreement between Bet Shammai and Bet Hillel to the issue of whether the reading or textual tradition was determinate. See, e.g., R. Meir Abulafia, יד רמ"ה ad *b. Sanh.* 4a, ד"ה ואמר רב הונא.

18. Maimonides, *Code*, הלכות פסולי המוקדשין, ספר עבודה, 17:1.

19. See, e.g., the *masora parva* in BHS ad Lev 4:7. Cf. S. Frensdorff (ed.), *Die Massora Magna* (Hannover: Cohen and Risch, 1876; reprint: *The Massorah Magna* [New York: Ktav, 1968]) 171 sub קרן. So too M. Breuer (ed.), המסורה הגדולה לתורה (New York, 1992) 2.440.

20. See R. Jedidiah Solomon Norzi, מנחת שי (Vienna, 1814) ad Deut 11:18.

§5 informs us that the *waw* in the word שלום at Num 25:12 is truncated. Moreover, a halakhah is derived from the truncated *waw*, namely that temple service performed by a priest with a blemish is invalid. This is so even if it is only after the fact that the priest discovers that he was unfit when he performed the service. That there is a truncated *waw* in Num 25:12 is nowhere disputed in all of rabbinic literature. Yet it appears that the vast majority of Torah scrolls, at least in the medieval and early modern periods, did not contain a truncated *waw*. In the eighteenth century, for example, all the Torah scrolls in Jerusalem and Salonika (over 800 of them) were examined. In virtually every case, the *waw* in Num 25:12 did not differ from any other *waw* in the Torah.[21]

§6 rules that objects carried above a *zab* are rendered impure, even if not touched directly by the *zab*. This ruling is derived from Lev 15:10, where the word הנשא occurs defectively and, for the purpose of providing an underpinning for the halakhah, was understood by the rabbis as if it were vocalized הַנָּשָׂא. The MT, however, reads הנושא, that is, plene, thus pulling the rug out from under this halakhah.

Regarding §§3–6, it should be noted that the spellings of the biblical words contained in them are never disputed in the Talmud. While other Tannaim or Amoraim derive these same laws from other biblical verses or by various exegetical means, they never challenge the accuracy of the spellings recorded in §§3–6. Nonetheless, the Masoretes successfully ignored these spellings, and the MT continues to ignore them to this very day.

Nor does it help to argue that the Tannaim and Amoraim invented artificial justifications for traditional halakhot, and thus one need not take seriously the derivations from Scripture that they suggested. Even if one concedes that the justifications are imaginary, the fact remains that, at the very least, the talmudic discussions provide evidence for what the biblical text looked like at the close of the talmudic period, if not earlier. And for the purposes of the halakhah, this will do admirably.

What is even more remarkable is the fact that medieval and early modern halakhists made a concerted and sustained effort to render the talmudic spellings normative for all Torah scrolls. The call fell on deaf ears; indeed, it failed ignominiously. §§7–14, deliberately selected from an even larger group of candidates so that every century from the thirteenth through the eighteenth is represented, demonstrate the relentless effort of the halakhah to revise the MT in accord with talmudic spellings. These authorities demanded that, at the very least, new Torah scrolls be written in accord with the talmudic spellings that served as bases for halakhot. Some authorities unabashedly required that even Torah scrolls already in existence be corrected accordingly. That the war still

---

21. See R. Isaac ha-Kohen Rappaport, בתי כהונה (Salonika, 1714) 3:20; and R. Moses Amarillo, דבר משה (Salonika, 1750) 3:8.

needed to be waged in the eighteenth century proves that, for all intents and purposes, it was a lost cause. Considering the fact that the warriors were hardly halakhic lightweights (for example, Rashba, Riṭba, Meiri, Radbaz, and Azulai), the futility of their efforts demands explanation.

§7. Rashba (ca. 1235–1310), שו"ת הרשב"א המיוחסות לרמב"ן, §232:[22]

ומכל מקום בכל מה שבא בתלמוד דרך עיקר דין כקרנת וכבסכת לטוטפת ובן
אין לו ביו"ד, דרשינן עיין עליו מדלא כתיב בלא יו"ד כמו מאן בלעם, שעליו
דנין עיקר ירושה שממשמשת והולכת, בזה ודאי מתקנין, וכן בכל מקום ומקום
אפילו בחסרות ויתרות מתקנין המיעוט על פי הרוב, דמקרא מלא דבר הכתוב
אחרי רבים להטות.

Nevertheless, wherever the Talmud derives a law from a biblical spelling such as *qarnot* (Lev 4:25, 30, 34), *ba-sukkot* (Lev 23:42), *le-ṭotafot* (Deut 6:8), *u-ben* *ᵓeyn lo* (Num 27:8)—*ᵓeyn* is expounded as if it read *ᶜayyen* 'investigate the deceased (for descendants)', from which we derive the primary rule of inheritance, namely, that the line of inheritance extends from the deceased downwards and (if necessary) upwards indefinitely, since it is not spelled defectively without a *yod*, as for example, the word *meᵓen* in *meᵓen Bileᶜam* (Num 22:14)—in all such cases one must correct Torah scrolls accordingly. So too in all cases of discrepancies, even regarding defective and *plene* spellings, we correct the minority according to the majority of readings. For Scripture says openly: *One must side with the majority* (Exod 23:2).

§8. Meiri (ca. 1249–1316) ad *b. Qidduśin* 30a:[23]

וזה שאנו מוצאין תקונים ביד הסופרים שעל פיהם אנו סומכין בכתיבת ספר
תורה, אינם אלא כפי מה שמצאו בספרים המוחזקים כמדויקים, לא שיהא הדבר
ברור כל כך . . . ואף ספרי המסרות אין לסמוך עליהם כל כך, ואף לא המדרשות,
והרי מצינו מחלוקת בין המדרשות והמסרות במלת הפילגשים שדרשו בו
פילגשם כתוב, וכן ואשימם בראשיכם, ואשמם כתוב, וכן ביום כלות-משה,
כלת כתיב, ובספרי המסרה שלשתם שלמים. וכן קרנות קרנת מצינו במסרה
הפך מה שדרשו בו חכמים, אלא שבזו הסכימו הגאונים שמאחר שבא בתלמוד
בעיקר דין, כגון זה לטטפת וכגון בסכת וכגון אין לו שדרשו בו בעקר
דין עיין עליו, סומכין עליהם על התלמוד.

22. The text printed in the standard editions of Rashba, for example, שו"ת הרשב"א (Jerusalem, 1990) 7:232, is corrupt. The text presented here is an emended one, based on ample medieval testimony. See the discussion below and the references cited in nn. 38 and 39.

23. A. Schreiber (ed.), (Jerusalem, 1971). Compare the even more striking formulation in Meiri's ספר קרית (ed. Hirschler; Jerusalem, 1956) 1.57–58.

The existence of scribal manuals, which we rely upon for the writing of Torah scrolls, only indicates that some texts are considered more accurate than others, and not that the readings are established with certainty. . . . Neither can one rely very much on either Masoretic manuscripts or Midrashim. Indeed, we find discrepancies between Midrash and Masorah regarding *ha-pilagšim* (Gen 25:6), which they expounded as if written defectively. So too regarding *va-ʾasimem be-raʾšekhem* (Deut 1:13), which they expounded as if written defectively. So too *be-yom kallot mošeh* (Num 7:1), which they expounded as if written defectively. In the Masoretic manuscripts, all three are written *plene*. So too regarding *qarnot* (Lev 4:25, 30, 34), the reading of the Masoretic manuscripts presents the opposite of what the Sages expounded. Regarding this last discrepancy, the authorities have ruled that wherever the Talmud derives a law from a biblical spelling—as in this case—and in the cases of *le-totafot* (Deut 6:8), *ba-sukkot* (Lev 23:42), and *ʾeyn lo* (Num 27:8)—from which they derived the law that "one must investigate the deceased (for descendants)"—one relies on the biblical spelling as it appears in the Talmud.

§9. Riṭba (d. ca. 1330) ad *b. Qiddušin* 66b:[24]

וא″ו דשלום קטיעא היא. נראה פי׳ שכרות בנתים. דאי לא. הוה ליה למימר
זעירתא היא, ונפקא מינה לס″ת. ויש להגיה כל הספרים שלנו שכתובה כדרכו.

The *waw* of *šalom* is truncated: It appears that the sense is that it is split in half. Otherwise (i.e., if it is missing the bottom half), he should have said that it is a miniature *waw*. The practical difference relates to how one writes this letter in a Torah scroll. All Torah scrolls that exhibit an ordinary *waw* here, need to be corrected.

§10. R. Simeon b. Ẓemaḥ Duran (d. 1444), שו″ת תשב″ץ 3:160:[25]

אבל הפילגשים וביום כלות משה נמצאו מדרשות שהם חסרים. אבל כבר
כתב הרשב″א ז″ל בתשובה שאין סומכין על אלו המדרשות לתקן הספרים,
ומניחים אותם שלמים, אלא בדבר שיוצא ממנו דין כגון בסכת בסכת בסוכות
או קרנת קרנת קרנות וכיוצא בהן.

Regarding *ha-pilagšim* (Gen 25:6) and *be-yom kallot mošeh* (Num 7:1), there are Midrashic passages that expound these as if written defectively. But Rashba has already ruled in a responsum that we do not rely on these Midrashic passages in order to correct biblical spellings. We leave these spellings *plene*. We rely only on spellings from which

24. A. Dinin (ed.) (Jerusalem, 1985).
25. Lemberg, 1891.

laws are derived, such as *ba-sukkot* (Lev 23:42), *qarnot* (Lev 4:25, 30, 34), and the like.

§11. Radbaz (d. 1573), שו"ת רדב"ז 4:101:[26]

אלא עיקרן של דברים מה שאגיד לך שכל מלא וחסר שתלוי בו דין לפי מה שלמדו בגמרא כגון קרנות קרנת וכגון סוכת סכת וכגון ובן אין לו, עיין עליו, אלו וכיוצא בהן יש להגיה הספרים אם נמצאו היפך ממה שכתוב בגמרא. אבל כל מלא וחסר דלא נפקא מינה לענין דינא אלא מדרש בעלמא, לא נגיה שום ספר על פי הדרשה ולא על פי המסרה אלא אזלינן בתר רובא, דלא עדיף מכל דיני התורה קלים וחמורים דאמרינן אחרי רבים להטות. יש לנו להגיה הספרים בתר רוב הספרים במלתא דלא תליא לענין דינא.

The principle is as follows: Regarding every *plene* and defective spelling from which the Talmud derives a law, such as *qarnot* (Lev 4:25, 30, 34), *sukkot* (Lev 23:42), and *ben ᵓeyn lo* (Num 27:8)—understood as "investigate the deceased (for descendants)"—in these and similar cases one corrects the biblical manuscripts which offer readings that differ from the Talmudic spellings. But regarding all *plene* and defective readings which have no import on law, but merely serve as the source of a Midrashic comment, no biblical manuscript may be corrected on the basis of such a Midrashic comment. Nor may a correction be based on a Masoretic tradition. Rather, the rule is we follow the majority of readings. The case here is no different than all other Torah laws, minor and major, regarding which we rule: We follow the majority. Regarding spellings which do not relate to laws, we correct manuscripts only according to the majority of readings.

§12. R. Ephraim ha-Kohen of Vilna (d. 1678), שו"ת שער אפרים, יורה דעה §82:[27]

לכאורה היה נראה לומר דא"צ להוציא ס"ת אחרת, לפי שהוא מן חסרות ויתרות ואנן אינן בקיאים . . . אמנם זה אינו, שהרי דרשינן בגמרא דהזהב וחמשתיו יוסף עליו, חמישיות הרבה, והיינו הואיל ונכתב מלא ביו"ד האחרונה.

In theory, it seems appropriate to rule that one need not take out a second Torah scroll, for this is a case of defective and *plene* spellings, regarding which we are no longer expert. . . . But this is not a correct ruling, for the Talmud (*b. B. Meṣ.* 54b; cf. *b. B. Qam.* 108a) expounds the verse *and he shall add a fifth part (va-ḥamišitav) to it* (Lev 5:24) as referring to many fifths. This is because *va-ḥamišitav* is written *plene,* with a second *yod.*

26. Warsaw, 1882.

27. Lemberg, 1887.

§13. R. Jacob Poppers (d. 1740), שו"ת שב יעקב, 1:56:[28]

חסר או יתיר שנלמד ממנו בש"ס ותלוי בו דין יש להגיה הס"ת. משא"כ דרש
בעלמא שלא יצא ממנו דין י"ל שדרשו כן משום שמצאו ברוב ס"ת שלהם כך.

A defective or *plene* spelling from which a law is derived in the Tal-
mud serves as a source for correcting a Torah scroll. Not so an ordi-
nary Midrashic comment from which no law is derived. One can claim
that it (i.e., the ordinary Midrashic comment) was expounded on the
basis of the reading of the majority of Torah scrolls at that time.

§14. R. Ḥayyim Joseph David Azulai (d. 1806), לדוד אמת, 11:3:[29]

כל מלא וחסר שתלוי בו דין לפי הש"ס, כגון קרנת קרנות סוכות סכת ובן אין
לו, יש להגיה הספרים.

One corrects Torah scrolls on the basis of all *plene* and defective spell-
ings from which a law is derived in the Talmud, e.g., *qarnot* (Lev 4:25,
30, 34), *sukkot* (Lev 23:42), and *ben ʾeyn lo* (Num 27:8).

The disparity between the MT and the halakhah, as reflected in these passages,
raises some serious issues that have largely been ignored by modern scholar-
ship. How did the MT, a biblical text that in some ways differs substantively
from the text of Talmud, become the normative biblical text for halakhic Ju-
daism?[30] Why, in the medieval period, when halakhah reigned supreme and re-
peated efforts were made in every generation, was it impossible to make even
a dent in the MT? Given our ignorance of the state of the Bible text and the
history of its transmission between 500 and 800 c.e., scholarship may never
be able to provide a definitive solution to the problems just raised. Neverthe-
less, the attempt must be made. Here, I wish to suggest several new directions

28. Frankfurt am Main, 1702. I have presented here the summary of Poppers responsum, as
printed in the margin of the published text. It is an accurate summation; much more, of course,
appears in the responsum itself.

29. Jerusalem, 1986 (p. 18).

30. A suggestive, even attractive solution to the tension between Masoretic Bibles and the
halakhah would be to identify the Masoretic enterprise as Karaite (as first suggested by S. Pinsker,
לקוטי קדמוניות [Vienna, 1860] 32). The Karaites, of course, would never have allowed rabbinic
halakhah to color their *textus receptus*; hence the continuing tension. But the solution is too neat.
Why would the medieval rabbis have allowed a Karaite ordering of the biblical books and *textus
receptus* to replace their own? Why, in all of the Karaite-Rabbanite polemical literature, does there
never appear a dispute concerning the consonantal text of the Hebrew Bible? Why didn't the Ka-
raites proclaim openly that the Masoretic enterprise was theirs and that the Rabbanites were de-
pendent on them for their biblical texts? Clearly, the Masoretic enterprise was not entirely Karaite,
any more than it was entirely Rabbanite. More importantly, the evidence for the Rabbanite iden-
tity of many of the Tiberian Masoretes, and particularly of the Ben Asher family, is persuasive.
See M. Zucker, "נגד מי כתב רב סעדיה גאון את הפיוט יאשא אשא משלי?" *Tarbiz* 27 (1958) 61–82; and
A. Dotan, *Ben Asher's Creed: A Study of the History of the Controversy* (Missoula, Mont.: Schol-
ars Press, 1977).

for research and list some factors that may prove useful in resolving these issues, to the extent that it is still possible to do so. It is essential that studies be made of all Masoretic-Halakhic treatises, such as R. Meir ha-Levi Abulafia's מסורת סייג לתורה, R. Menaḥem Meiri's קרית ספר, R. Menaḥem Lonzano's אור תורה, and R. Jedidiah Solomon Norzi's מנחת שי. Each needs to be analyzed and its impact on halakhic practice assessed.[31] Only then will we know to what extent these treatises impacted on the acceptance of the MT over talmudic spellings. Such studies should enable us to place in perspective the impact of the invention of the printing press—and the appearance of the first printed Hebrew Bibles—on establishing a fixed, permanent text of the Hebrew Bible.[32] They may enable us to weigh the significance of Jacob b. Ḥayyim Ibn Adonijah's *Introduction to the Rabbinic Bible*, where it is suggested in no uncertain terms that the MT always takes precedence over talmudic readings.[33] They may also shed light on the impact of the Kabbalah on the MT. R. Menaḥem Lonzano, for example (and likewise the Gaon of Vilna), was clearly influenced by the teachings of the Zohar to the detriment of talmudic spellings and in support of the MT.[34]

A factor that must loom large in our discussion, previously suggested by Yisrael Ta-Shma, is the role played by scribal guilds.[35] Scribes formed a guild in the medieval world (and earlier as well). They developed their own traditions and trained their own successors. As a rule, biblical books were copied by professional scribes, not by halakhists. Scribes, then, and not rabbis, were responsible for the textual transmission of the Hebrew Bible. Indeed, so powerful and conservative were the guilds, they could ignore rabbinic intervention, even as they ignored scribes who wished to introduce change. A parade example is R. Abraham Ḥasan (ca. 1465–1524), a professional scribe who attempted to

31. Particular attention needs to be paid to Abulafia and Meiri, who authored commentaries on the Talmud and wrote masoretic treatises. Interestingly, they tend to follow the plain sense of the Talmud (against the masoretic spellings) when commenting on the Talmud; and they tend to agree with the MT (against the talmudic spellings) when writing on masoretic matters (see, for example, their respective comments to *b. Sanh.* 4a–b; compare their treatments of the same biblical verses in their masoretic manuals). This literary-exegetical phenomenon, that is, the tendency to explicate and defend the text at hand, merits further exploration.

32. See M. Cohen, "קווי יסוד לדמותו העיצורית של הטקסט בכתבי יד מקראיים מימי הביניים" in עיוני מקרא ופרשנות (Ramat-Gan, 1980) 1.123–82, who views the invention of the printing press as the most potent factor in establishing a fixed and uniform MT. But the invention of the printing press, while certainly a contributing factor in fixing the text of the MT, occurred much too late in history to shed any real light on the issue raised in this study, namely, the dominance of Masorah over halakhah.

33. See C. D. Ginsburg (ed.), *Jacob ben Chajim Ibn Adonijah's Introduction to the Rabbinic Bible* (London: Longmans, Green, Reader, and Dyer, 1867; reprint: New York: Ktav, 1968) 57–66.

34. For Lonzano, see שתי ידות, section אור תורה, 6b, 13b, and 20a. For the Gaon of Vilna, see his commentary on the Zohar, יהל אור (Vilna, 1882) ad Zohar 3:254a.

35. Y. Ta-Shma, "יצירתו הספרותית של ר' מאיר הלוי אבולעפיה," *KS* 45 (1970) 119–26, esp. pp. 125–26; idem, "קווים לאופייה של ספרות ההלכה באשכנז במאות הי"ג–הי"ד," *Alei Sefer* 4 (1977) 20–41; idem, הלכה מנהג ומציאות באשכנז (Jerusalem, 1996) 94–111.

introduce change in writing Torah scrolls. He got nowhere with his fellow scribes, and his attempt to create a rabbinic-scribal alliance of sorts against his colleagues ended in dismal failure.[36] Convention is a powerful force indeed, one not easily overcome.

Still another factor that led to the dominance of the MT over halakhah, incredible as it may seem, was a scribal error.

§15. R. Jedidiah Solomon Norzi (d. 1616), מנחת שי ad Lev 4:34:

וכבר קדמתי לך כי בכל מקום שהגמרא או המדרש חולק על המסורת בחסרות
ויתירות אנו הולכים אחר המסורת, ולא מבעיא בדרשות של אגדה כגון פלגשם
כלת ואשמם, אלא אפילו היכא דנפיק מיניה דינה... ובשו"ת הרמב"ן ז"ל,
סימן רל"ב, נשאול נשאל על זה... והשיב לו הרמב"ן ז"ל דבכל מקום אפילו
בחסרות ויתרות מתקנים מיעוט ספרים על פי הרוב דמקרא מלא דבר הכתוב
אחרי רבים להטות.

I have already mentioned that wherever there is a dispute between the Talmud or Midrash and the Masorah regarding defective or *plene* spellings, we follow the Masorah. Not only do we do so in the case of Midrashic homilies, such as *pilagšim* (Gen 25:6), *kallot* (Num 7:1), and *va-ʾasimem* (Deut 1:13), but even in cases where a law is derived from a specific spelling. . . . In Naḥmanides' *Responsa*, §232, he was asked specifically about this issue. . . . Naḥmanides responded that in all cases, even regarding defective and *plene* spellings, we correct the minority according to the majority of readings. For Scripture says openly: *One must side with the majority* (Exod 23:2).

In §15, Norzi reveals his source for deciding in favor of the MT over the Talmud, even when a halakhah is derived from the talmudic spelling of a biblical word. Surprisingly, it is §7 (see above; in the early printed editions, Rashba's responsum was mistakenly ascribed to Nachmanides), which rules precisely the opposite of what Norzi claims, namely, that when a halakhah is dependent on the talmudic spelling of a biblical word, the Talmud is favored over the MT! Apparently, Norzi was misled by an egregious scribal error that already appears in the first printed edition (Venice, 1519) of this responsum. Due to the scribal error, an extra word was inserted in the printed text that turned the entire responsum on its head.[37] The original version of the responsum distin-

---

36. M. Benayahu, "אגרת הסופר רבי אברהם חסן משאלוניקי," *Sefunot* 11 (1971–78) 189–229.

37. For the correct version, see §7 above. The incorrect version (Venice, 1519 on) adds the word המיעוט immediately after the phrase בזה ודאי מתקנין. It appears likely that the error crept into the text from the following line, where the word המיעוט correctly follows immediately after the phrase בחסרות ויתרות מתקנין. To add to the confusion, an abridged version of this responsum, still circulating as late as the sixteenth century, omits mention of the notion that when a halakhah is derived from the talmudic spelling of a biblical word, one decides in favor of the Talmud over the MT (see Y. Maori, "מדרשי חז"ל," 284).

guishes between biblical spellings that serve as a source for a halakhah and those that serve as a source for Midrash, ruling that in the former case we correct the reading of even a majority of Torah scrolls according to a single talmudic spelling, whereas in the latter case we follow the reading of the majority of Torah scrolls, regardless of whether it agrees or disagrees with the spelling of the Midrash. Norẓi's version makes no such distinction, ruling instead that in all instances—regardless of whether a spelling serves as a source for a halakhah or for Midrash—"we correct the minority according to the majority of readings." Early halakhic authorities who could only have seen the responsum in manuscript form cite it correctly.[38] Despite a long list of later authorities who emended the obviously corrupt printed text,[39] Norẓi's reading and ruling were perpetuated by R. Solomon Ganzfried (d. 1886), in קסת הסופר, where (following a lengthy discussion of what to do when the MT and Talmud disagree) he wrote:

ולכן מחוורתא כמו שכתב המנחת שי דבעלי המסורה פליגי אגמרא והילכתא כבעלי המסורה.

In sum, the clearest account is that of *Minḥat Shay* (i.e., Norẓi) who wrote that the Masoretes disagree with the Talmud and that the halakhah is in accordance with the Masoretes.[40]

The ultimate triumph of the MT over the Talmud came when Ganzfried's קסת הסופר was canonized for all generations by R. Moses Sofer. In a striking letter of approbation to the first edition of קסת הסופר (Ofen, 1835), Sofer wrote that from now on anyone under his jurisdiction who wished to be licensed to serve as a professional scribe would first have to master Ganzfried's treatise. Moreover, Sofer testified that he read the book from beginning to end; it was halakhically flawless. The upshot of this testimony, coming from perhaps the most prominent halakhist of the last 200 years, is that all Torah scrolls written among Ashkenazic Jews are now uniform and reflect the triumph of the MT over the Talmud. Interestingly, the confluence of Norẓi's reliance on a scribal error and of Ganzfried's reliance on Norẓi is made even more fortuitous by the following facts. Ganzfried, who was a prolific author, was only 31 years old when he published his first book, קסת הסופר, in 1835.[41] Had he authored

38. See the evidence cited by J. Penkower, "Maimonides and the Aleppo Codex," *Textus* 9 (1981) 40 n. 3. Compare the additional evidence cited by S. Z. Havlin, "ספר תורה שכתב לעצמו רבינו נסים מגירונדי" *Alei Sefer* 12 (1986) 22 n. 102.

39. Among them: R. Moses Amarillo, דבר משה, 3:8; R. Israel Jacob Algazi, נאות יעקב (Warsaw, 1899) 1:1, p. 5b; R. Isaac ha-Kohen Rappaport, בתי כהונה, 3:20; and R. Solomon Loniado, בית דינו של שלמה (Constantinople, 1775), יורה דעה §10.

40. Ganzfried, קסת הסופר (1st expanded ed.; Ungvar, 1871) 103a, note.

41. In general, see Y. Rubenstein, "תולדות הגאון רבי שלמה גאנצפריד זצ"ל וביבליוגרפיה של ספריו" *ha-Maᶜayan* 11 (1971) 3:1–13 and 4:61–78. Cf. N. Ben Menaḥem, "הערות והשלמות," *ha-Maᶜayan* 12 (1971) 1:39–42.

and published it 5 years later (and almost all of his books were published after 1840), it would not have carried a letter of approbation from R. Moses Sofer, who died in 1839. More importantly, in the first edition of קסת הסופר, the only one seen by Sofer, no mention is made of Norẓi's ruling that the MT takes precedence over the halakhah, nor does Ganzfried ever rule (following Norẓi) והילכתא כבעלי המסורה 'and the halakhah is in accordance with the Masoretes'. These appear only in the much expanded, later editions of קסת הסופר (Ungvar, 1871 on), published long after the death of R. Moses Sofer, but still with his letter of approbation from 1835. With the publication of the expanded edition of קסת הסופר together with Sofer's letter of approbation, no halakhist came forward again with the suggestion that a talmudic spelling of a biblical word take precedence over the Masorah. A process that began early in the Middle Ages, and perhaps even earlier, had run its course. The total hegemony of the MT was finally settled by the קסת הסופר, who ruled (following Norẓi) והילכתא כבעלי המסורה 'and the halakhah is in accordance with the Masoretes'.[42]

The Akedah—and What to Remember

MICHAEL ROSENAK

The Hebrew University of Jerusalem

> *And Abraham said unto his young men,*
> *"Stay you here with the donkey,*
> *and I and the boy will go yonder;*
> *and we shall worship and return to you."*
> *(Gen 23:5)*

The Seat of Mercy

The Talmudic sages knew what they were doing when they chose the story of the *Akedah* as a Torah reading for Rosh Hashanah, the "day of remembrance." On this festival, *Yom Hazikaron*, we remember God's promise, and therefore we dare pray for the time when "you shall reign over all Your creatures." Yet through the prism of the *Akedah*, we also see this "day of remembering" as *ᵓayom v'kadosh*, terrible and holy, for us and *kivyakhol*, for God. It is holy because Abraham was ready to do everything for the God of holiness, and it is his merit we invoke as we stand in judgment. It is terrible or at least awe-inspiring because God too seems to have much to remember. Why would he ask for such a "gift" and impose such a test? Is this the way of a moral and merciful God? Why did Abraham agree to do it? And what made it possible for the patriarch in the midst of this unbearable ordeal to "see beyond it," to promise his "young men" that Isaac and he would "worship and return"?

On Yom Kippur, these Rosh Hashanah questions are, if possible, heightened. In the *selihot* of *Mussaf* we read of the *ᶜaśarah harugai malkhut*, the ten sages tormented to death by the Romans. And then, startlingly, we turn to God to "look from behind your veil and remove blemishes, O God and King Who sits on the seat of mercy"! Is this, perhaps, what Abraham knew when he promised to worship and return, that God "sits on a seat of mercy"? But what about those who didn't return, such as the ten sages themselves? And Sarah who, one midrash tells us, died of shock and grief upon hearing where Abraham had taken her son? (*Gen. Rab.* 58:5).