

“They Could Say It, We Cannot”: Defining the Charge of Heresy

By: NATAN SLIFKIN

A Cryptic Judgment

When three of my books were banned under the charge of heresy, this was a source of much confusion. It emerged that the respected rabbis who issued the ban were, for the most part, not condemning anything peculiar to my own presentation. Instead, they were condemning two positions that I had unquestionably adopted in the books: that the Genesis account need not be interpreted as referring to a literal six-day creation and could be reconciled with modern science, and, even more significantly to them, that the Sages of the Talmud did not possess knowledge of the natural world beyond what anyone else in their era knew and were therefore mistaken in some of their statements. This begged the question that since these positions had been presented by towering Torah authorities of previous generations, how could they be condemned as heretical? Rabbi Aharon Feldman of Ner Israel Rabbinical College traveled to Israel in order to ask this question of Rav Yosef Shalom Elyashiv, the most distinguished of the signatories in the ban, and considered by many to be the greatest halachic authority of our day. If Rav Sherira Gaon, Rambam, Rabbeinu Avraham ben HaRambam, Rav Yitzchak Lampronti, Rav Hirsch, and many others could state such views, how could these views be condemned as heretical? Rav Elyashiv’s cryptic reply was, “They could say it, we cannot.”

Unfortunately, the reasoning behind this explanation is unclear and it is open to multiple interpretations. I expressed my frustration with this ambiguity by parroting this phrase in my book *The Challenge Of Creation*. Several nineteenth-century Torah authorities sought to account for dinosaur fossils by claiming that dinosaurs were wiped

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out in the Deluge, which, they argued, also had the effect of making these fossils appear much older than they actually are. I noted that these and similar ideas might have been reasonable to the nineteenth-century thinkers who first proposed them, but in light of the scientific data available to us, they no longer have any serious basis. I concluded by stating, “They could say such things, but we cannot.” This was not, Heaven forbid, an attempt to mock Rav Elyashiv’s statement, but rather my goal was to show how in certain cases this phrase has a clear and reasonable meaning. Yet in the case of Rav Elyashiv’s statement, there is no immediately obvious way in which it is applicable to my books, and it admits a variety of possible interpretations.

The Halachic Interpretation

Rabbi Feldman’s own understanding of Rav Elyashiv’s statement was that these authorities were authorities in their own right, qualified to decide matters of Jewish law, but we are enjoined to follow the majority opinion, which considers that everything in the Talmud is either from Sinaitic tradition or Divinely inspired, and which judges any diminishing of the honor and the acceptability of the words of the Sages to be heresy.¹ This in turn is interpreted by others to mean that there is now a *halachic* ruling that such beliefs, while perfectly theologically acceptable in the times of the Rishonim, have now been bindingly *paskened* for the Jewish People to be bona fide heresy.

I believe that this understanding of Rav Elyashiv’s position is incorrect and problematic for several reasons. First of all, as we shall later discuss, such non-halachic matters are not normally considered to be subject to the halachic procedure of following majority views. Rabbi Feldman claims that some particular beliefs (i.e. those that can categorize one as a heretic) affect a Jew’s status with respect to vari-

¹ Rabbi Aharon Feldman, “The Slifkin Affair—Issues and Perspectives,” available at <www.zootorah.com/controversy>. I would like to take this opportunity to register my strong dislike of the label “Slifkin Affair.” It is more appropriate to term this business the “Dinosaur Affair,” “Mermaid Affair” or “Torah-Science Controversy.”

ous laws and are therefore also part of practical halachah.² But this assertion is highly problematic. Rabbi Feldman himself concedes that Rav Elyashiv stated that I cannot be condemned as a heretic since there are Rishonim and Acharonim who themselves took such approaches. Thus, according to Rav Elyashiv, such beliefs do *not* affect a Jew’s status and would thus surely not be part of practical halachah.³

Second, there is a long history of theological disputes with regard to beliefs that can potentially categorize one as a heretic, and nobody has ever claimed that one is always obligated to follow the majority view. I am not referring to lone opinions that are historical oddities, which I shall discuss later in this essay. Instead, I am referring to matters in which there are significant, broad disputes. For example, one of Rambam’s principles of faith concerns reward and punishment. There have long been far-ranging disputes concerning the nature of this reward and punishment, with most views diverging sharply from that of Rambam, yet nobody has ever claimed that everyone is obligated to clarify and adopt the majority views. Likewise, Rambam and many others condemned any prayers to angels, such as that of *Barchuni Le’Shalom*, as heretical, and yet there are different approaches to such prayers today without anyone seeing an obligation to clarify and follow the majority.

Third, even if one were to consider that the halachic practice of following the majority applies, it does not apply in cases where there is gauged to be pressing need or compelling reason to follow the minority view. For example, in outreach situations, it is often permitted to follow minority halachic opinions so as not to alienate the prospective returnee to Judaism. In the case of the approach of Rambam

² In this vein, Rabbi Feldman cites the Chazon Ish as the “*posek acharon*” in stating that the *shechitah* of someone who adheres to these views is invalid.

³ Rabbi Feldman claims that halachic rulings regarding violating Shabbos for Talmudic medical procedures that are disputed by modern science show that “for practical purposes, we reject the view of R. Avraham.” However we are not discussing practical purposes; indeed, in my work I favor the position of Rav Herzog and others that even if the Talmud does contain scientific errors, the halachos based on these errors are not to be changed. The discussion here is one of theological and scientific truth, not practical purposes.

and others to the science of Talmud, there exist both pressing reason to follow the minority view (the large number of sincere Jews who will experience a crisis of faith without this approach) and compelling reason (the fact that several statements in the Talmud about the natural world have quite clearly been disproved).

Fourth, the practice of following the majority is not usually expected to be binding on those who have a long-standing tradition in accordance with the minority approach. For example, there is no opposition to the Yemenite community following their traditional allegiance to the halachic rulings of Rambam, even though other communities follow the majority of halachic decisors in disputes with Rambam's rulings.

Fifth, in the times of the Geonim, Rishonim, and early Acharonim, the majority view appears to have been that the Sages were *not* infallible in matters relating to the natural sciences. The Talmud records a debate between the Jewish and Gentile scholars regarding where the sun goes at night.⁴ The Gentile scholars maintained that the sun passes on to the other side of the world at night, whereas the Jewish sages argued that the sun travels behind the sky. The Talmud cites Rabbi Yehudah HaNasi as observing that the Gentile scholars appear to be correct. True, there was the lone view of Rabbeinu Tam that the Jewish sages were actually correct in saying that the sun passes behind the sky (which is clearly not the case), and more recent authorities such as Maharal have attempted to interpret this passage in a non-literal manner. Yet the vast majority of authorities until around 300 years ago—and even quite a few after that—understood it in accordance with its straightforward meaning: that the Jewish sages erred in a matter of astronomy.⁵

⁴ Talmud, *Pesachim* 94b.

⁵ Rabbi Eliezer of Metz (1115–1198), *Sefer Yere'im* #52; *Tosafos Rid* (Rabbi Yeshayah di Trani, 1180–1250) *Shabbos* 34b, s.v. *Eizehu*; Rabbeinu Avraham ben HaRambam (1186–1237), *ma'amar al aggadas Chazal*; Rosh (Rabbeinu Asher ben Yechiel, 1250–1328), *Pesachim* 2:30 and *She'eilos U'Teshuvos HaRosh*, *Kelal* 14, #2; Ritva (Rabbi Yom Tov ben Avraham Alasevilli, 1250–1330), Commentary on the Haggadah, s.v. *Matzah zo she'anu ochlim*; *Sefer Mitzvos HaGadol* (Rabbi Moshe ben Yaakov of Coucy, 13th century), *Lo Ta'aseh* #79; Rabbeinu Yerucham ben Meshulam (1280–1350), *Toldos Adam VeChavah*, *Nesiv* 5, Part 3; Rabbeinu Manoach (13th-14th century), Commentary to *Mishneh Torah*, *Hilchos*

Therefore, claiming that when Rav Elyashiv said, “They could say it, we cannot” he meant that we are obligated to follow a halachic procedure of following a majority opinion that deems this approach heretical, is problematic for a number of reasons. What, then, did Rav Elyashiv mean? After contemplating and researching this question for some time, and learning about other statements that Rav Elyashiv made to Rabbi Feldman but that were not revealed in Rabbi Feldman’s essay, I believe that I have arrived at the correct interpretation. But first, some discussion about important theological issues is in order.

Nebach an Apikores, Nebach Kefirah

There is a long-standing dispute about the status of a sincere, Torah-observant Jew who holds incontrovertibly heretical views but who does so out of innocence (for example, he never grew out of his childhood Bible class which taught him that God possesses physical

Chametz U-Matzah 5:11, s.v. *Ela bemayim shelanu*; Rabbi Eliyahu Mizrachi (1450–1526), Responsum #57; Rabbi Yitzchak Arama (1420–1494), *Akeidas Yitzchak, Parashas Bo*, Chap. 37; Maharam Alashkar (Rabbi Moshe ben Yitzchak Alashkar, 1456–1542), Responsum #96; Radvaz (Rabbi David ben Shlomo ibn Avi Zimra) (1479–1573), Responsa, Part IV, #282; Rabbi Moshe Cordovero (1522–1570), *Pardes Rimonim* 6:3; *Lechem Mishneh* (Rabbi Avraham ben Moshe de Boton, 1545–1585) to *Mishneh Torah, Hilchos Shabbos* 5:4; Maharsha (Rabbi Shmuel Eliezer Edels, 1555–1631) to *Bava Basra* 25b; *Minchas Kohan* (Rabbi Avraham Kohan Pimentel, ?–1697), *Sefer Mevo HaShemesh* 10; *Chavos Ya’ir* (Rabbi Yair Chaim Bacharach, 1638–1702), Responsum #210; Maharif (Rabbi Yaakov Feraji Mahmah, c. 1660–1730) Responsum #47; Rabbi Yitzchak Lampronti (1679–1756), *Pachad Yitzchak, erech tzeidah*; Rabbi Yisrael Friedman of Ruzhin (1797–1850), cited by Rabbi Menachem Nachum Friedman in *Maseches Avos Im Perush Man*, p. 8; Rabbi Moshe Schick (1805–1879), Responsa Maharam Schick, Responsum #7; Rabbi Samson Raphael Hirsch (1808–1888), letter written to Rabbi Pinchos Wechsler, published by Rabbi Dr. Mordechai Breuer in *Hama’ayan* (1976); Chacham Yosef Chaim (Ben Ish Chai, 1832–1909), *Benayahu, Bava Basra* 25b; Rabbi Yeshua Shimon Chaim Ovadyah (1872–1952), Responsa *Yesamach Levan, Orach Chaim* #10, #12; Rabbi Menachem Nachum Friedman of ITCANI/STEFANESTI (1873–1933), *Maseches Avos Im Perush Man*, pp. 7-8.

form). Rambam, who understood that Heavenly reward is a natural consequence of intellectual perfection, was forced to take the view that such a person was tragically still a heretic, doomed to receive no share in the World to Come. But one need not adopt such a Maimonidean view of the afterlife in order to maintain that someone who maintains heretical beliefs out of innocence is still a heretic. This position was also maintained by Rabbi Chaim Soloveitchik, who famously stated that someone who is *nebach* an *apikoros* is still an *apikoros*. Rabbi Yosef Albo, on the other hand, and several others, stated emphatically that such a person is not to be deemed a heretic.⁶ God can, in His graciousness, choose to grant Heavenly reward to whomever He sees fit, and would not withhold it from someone who errs out of innocence.

However, regardless of which position one takes in this dispute, it is clear that this dispute is only regarding the treatment of the person who espouses such views. But the views themselves, even if reached in good faith, are still heretical! Even if it is due to an honest misunderstanding that a person concludes that God has physical form, and we do not condemn him for his error, we still maintain this to be a grievous error. There is dispute about whether *nebach* an *apikores* is indeed an *apikores*, but *nebach kefirah* is most definitely *kefirah*!

The Heresy of Hillel

Now let us turn to the issue of beliefs that were held by great authorities in the past but subsequently deemed heretical. An important source text is a statement in the Talmud by Rabbi Hillel (not the famous Hillel of the Hillel-Shammai disputes): “There shall be no Mashiach for Israel, because they have already enjoyed him in the days of Chizkiyah.”⁷ Rambam, however, listed belief in the future era of the Mashiach as one of his thirteen fundamental principles of faith.

Chassam Sofer states that a person today may not choose to disavow belief in the Mashiach and claim to be a Jew in good standing

⁶ Rabbi Yosef Albo, *Sefer ha-Ikkarim*, 1:2; Rabbi Shimon ben Tzemach Duran, *Ohev Mishpat* 15a; Radvaz, *Shailos u'Teshuvos Radvaz* 1258 (references from Shapiro p. 10). This is also apparently the position of Raavad.

⁷ Talmud, *Sanhedrin* 99a.

by virtue of having Rabbi Hillel as a precedent.⁸ Rabbi J. David Bleich notes that the Gemara itself issues an uncontested rejection of Rabbi Hillel's viewpoint, and nobody in the history of Judaism has ever claimed legitimacy for his view.⁹

This is an important point, but there is another important question here: What does this episode say about Rabbi Hillel? Rabbi Bleich claims that Rabbi Hillel himself was entitled to hold his view and it does not reflect badly upon him. There has been a halachic ruling to reject his view, but prior to this halachic determination, it was legitimate for someone to take this position:

The concept of the Messiah is one example of a fundamental principle of belief concerning which, at one point in Jewish history, there existed a legitimate divergence of opinion, since resolved normatively... the advancement of this opinion by one of the sages of the Talmud carried with it no theological odium. The explanation is quite simple. Before the authoritative formulation of the halachah with regard to this belief, Rav Hillel's opinion could be entertained. Following the resolution of the conflict in a manner which negates this theory, normative Halakhah demands acceptance of the belief that the redemption will be affected through the agency of a mortal messiah. As is true with regard to other aspects of Jewish law, the Torah is "not in Heaven" (Deut. 30:12) and hence halachic disputes are resolved in accordance with canons of law which are themselves part of the Oral Law." (Rabbi J. David Bleich, *With Perfect Faith*, p. 4)

Yet such a conclusion is problematic for two reasons. First of all, *nebach* a *kefirah* is still a *kefirah*. If one believes in multiple deities, this is a grievous perversion of religion no matter what. Likewise, if someone believes that there will be no Mashiach, this is a terrible misunderstanding of Jewish ideology (from our perspective), aside from being a serious factual error about future events. This reality does not change by virtue of who said it.¹⁰

Second, the Talmud itself quotes Rav Yosef's response to Rabbi Hillel's statement as "May God forgive him for saying this." Rashi explains that Rabbi Hillel's view was mistaken; others explain that it

⁸ *Yoreh De'ah* 356.

⁹ Reported by Rabbi Yitzchak Adlerstein.

¹⁰ See Shapiro, *The Limits of Orthodox Theology* pp. 141–145 for an elaboration of these points.

was heretical and apostasy.¹¹ This view was not something that Rabbi Hillel was entitled to hold, as if he was entitled to hold it, he would not require God's forgiveness.¹²

Thus, with regard to Rabbi Hillel's denial of the future Mashiach, it would be inappropriate to say, "He was permitted to say it, but we cannot." It was a grievous distortion of Judaism, and may God therefore have mercy upon him for saying it. It was *not* acceptable for him to say it. But one can say that "he was able to say it" in the sense that he was (apparently) not flung out of the community, due to his stature as a Torah scholar; he was able to *get away with* saying it.

Medieval Heresies

Now let us turn to statements by Rishonim that contradict Rambam's thirteen principles of faith. Dr. Marc Shapiro's work *The Limits of Orthodox Theology* shattered the popular misconception that Torah authorities only ever argued on whether Rambam's principles could be designated as primary fundamentals but not on the truth of these principles. Shapiro listed countless dozens of authorities over the ages who argued with Rambam concerning the truth of these principles; authorities who maintained that God does have or can take on some sort of physical form, that angels may be worshipped, that the Torah in our possession was not entirely transcribed by Moses, etc. This book caused great consternation as many were at a loss as to how to react to the espousal of such views by esteemed Rishonim and Acharonim.

Some were under the misconception that Dr. Shapiro was claiming that we should allow people today to maintain any of these beliefs, or indeed whatever beliefs they please. Having discussed this matter with Dr. Shapiro, I can attest that this is absolutely not the case. But the matter does require explication. My previous essay, *Was Rashi a Corporealist?* made the question even sharper by citing several reports from Rishonim concerning Torah scholars in northern France who were corporealists, and bringing several lines of evidence that even an authority as mainstream and prominent as Rashi was

¹¹ See Rabbi Avraham Bibago, *Derech Emunah* 102b, and Rabbi Eliezer Delmedigo, *Bechinat HaDas* 87.

¹² Abarbanel, in *Yeshuos Meshicho* 7, uses the same phrase in reference to Rambam.

apparently no exception. How is one supposed to react to this? It is not surprising that such reports are deeply disturbing to many people. Raavad could not accept that great and good people could be deemed heretics; his response was that it must be that heresy cannot be defined this way. But people living today who have accepted Rambam’s definition of heresy do not have Raavad’s escape route, and are all the more troubled by his question. Many therefore attempt to find any way possible to reinterpret the views of these authorities so as to save these Rishonim’s portion in the World to Come (in their view).

In our discussion above, we noted that if someone believes a particular belief to be a theological error, then it is an error no matter who said it. The proponent of this belief may or may not be personally culpable as a heretic, depending on whether one holds that *nebach* an *apikores* is an *apikores*. But the belief itself is either correct or false; its status cannot be changed by time, the stature of its proponent, a halachic ruling, or anything else. Thus, while Raavad attests that there were greater and better people than Rambam who believed in a corporeal God, and such people should not be condemned as heretics, the belief itself is, in his view, undeniably wrong and reflects a tragic error on behalf of its proponents.

Yet, as Raavad and others attest and as we know from their own works, there were a number of prominent Rishonim who did indeed espouse this belief. So, from our point of view, is such a belief acceptable or not? The answer is simple: According to those who follow the authorities who maintain that it is acceptable, it is acceptable, and according to those authorities who maintain that it is not acceptable, it is not acceptable!

This may sound comical, but it is not. If a belief is true, it is true no matter who says otherwise; if it is false, it is false no matter who propounds it. A person can perform his own analysis of the issue itself, but there is no way of conclusively determining and ruling who is correct.

Ruling on Heresies

With this in mind, let us turn to the issue of whether one can issue a halachic ruling on beliefs. Rambam states in several places that beliefs are not subject to the procedures of halachic rulings:

And I have already said many times that when there is an argument between the sages in ideas concerning belief, where its purpose is not in the area of action, we do not say that the halachah is like so-and-so. (*Perush HaMishnayos* to *Sotah* 3:5, stated in regard to whether the waters of a *sotah* are delayed from killing the *sotah* as a result of a merit that she has.)

I have mentioned to you many times that all arguments that are between sages that do not effect action, but only a belief in a thing, there is no reason to decide the halachah like one of them. (*Perush HaMishnayos* to *Sanhedrin* 10:3, stated in regard to the question of whether the ten tribes will ultimately return or are lost forever.)

And in regards to this argument it is not that the halachah is like the words of so-and-so, because it is something that concerns God. (*Perush HaMishnayos* to *Shavuos* 1:4, regarding which public offerings atone for which sins.)

A similar statement is made by Rabbi Chaim David Azulai, the Chida. In the context of establishing that a certain Amora is arguing with all the Tannaim regarding the nature of the Messianic Era, he writes:

It is widely accepted that with anything that has no halachic application, a late Amora can argue with a majority [of Tannaim], for with something that has no halachic application, permission is granted for everyone to speak his own mind. (Responsa *Chaim Sho'al* 98)¹³

There is good reason for this. A belief is either true or false; one cannot change this via a halachic ruling. If a rabbi rules that God has physical form, and even if every rabbi were to agree with him, this does not grant Him physical form.

Now, it is true that in cases of beliefs that may be heresy, there are halachic decisions that have to be taken with regard to these views. Can a person who espouses such views be converted to Juda-

¹³ Rashash to Talmud *Shabbos* 63a states the same, as does Rabbi Shlomo Algazi, *Gufei Halachos* (Izmir 1675), *Klalei Ha-Alef* 35.

ism? If he slaughters an animal, is it kosher? Can he be counted for a *minyan*? Such determinations, however, are necessary determinations for how to treat such a person; they do not determine the ultimate truth or falsehood of these propositions. To the best of our ability, we will assess whether these beliefs are true, and whether they are fundamental to Jewish theology, and based on this, we will decide upon who is a member of our community in good standing. But if a belief is true, it always has been and always will be true; if it is false, it always has been and always will be false; we cannot change or resolve this via a halachic ruling.

Yet here is where some people err and misunderstand Shapiro’s work. The fact that we cannot conclusively arbitrate between authorities does not mean that we will legitimize people adopting whichever of these views they choose. There is such a thing as overwhelming historical consensus, and this renders such views socially unacceptable. You wish to follow those Rishonim who believed that God has physical form? We cannot issue a halachic determination regarding God’s corporeality, but we can say that since we are overpoweringly of the opinion that this is a gross perversion of Judaism, don’t expect to flaunt this view and receive an *aliyah* in *shul*. This view has been overwhelmingly rejected by the historical consensus of the Jewish community, and it will therefore not be tolerated. We declare this view heresy in the sense that it is a drastic break from the beliefs of the community and therefore the person espousing this belief has effectively removed himself from the community.¹⁴ It is not so much a halachic ruling as it is an observation. Interestingly, Maharal also applies this in reverse, stating that “someone who separates himself from the ways of the community is [expressing] a view of heresy, since he is removing himself from the group, and scorning the community, and he has no portion in the community.”¹⁵

¹⁴ I was tempted to note that in the Pesach Haggadah, we state about the wicked son that “since he excluded himself from the community, he has denied the foundation,” explicitly defining heresy in terms of making a break from the community. However, further research revealed that in earlier versions of this text, such as in the Talmud Yerushalmi and Mechilta, it states instead that the wicked son “has excluded himself from the community *and* has denied the foundation.”

¹⁵ *Chiddushei Aggados, Rosh HaShanah*, p. 112.

Some free-thinkers may protest that they have a right to follow the great Rishonim who held this view. Perhaps they do; but the rest of the Jewish community has a right to reject them. Consider someone who sincerely believes that the United States is an evil country that must be destroyed. He can claim a right to his opinion; but he cannot claim that the United States must grant him citizenship. The United States is equally within its rights to deny his entry into their community.

Thus, when we consider statements by great Torah scholars of history that are at odds with what we would consider to be acceptable doctrine, we cannot use halachic procedures to prove such beliefs wrong, but we can say that we believe them to be wrong and we will not tolerate such beliefs.¹⁶ In severe cases, this can even reach the halachic situation of their being formally excluded from the community of believers.

So can we say, “They could say it, but we cannot”? That depends on what that phrase is intended to mean. We cannot declare that, because it was stated by someone of stature, it must have been a valid belief. *Nebach a kefirah* is still a *kefirah*; if a belief is heretical, it is heretical no matter who said it. But we *can* say that authorities of great stature living in certain eras can get away with possessing such beliefs and not be stigmatized to the extent that they are no longer regarded as Torah authorities, especially if their views on these matters are little-known. In this, we need not have any reason to follow Rambam. Rambam was forced to state that anyone espousing heretical beliefs was a heretic, due to his understanding of how intellectual perfection is ultimately the sole purpose of Judaism. Virtually nobody else adopts this approach, and we can be more generous about great people who were a product of their culture and era and therefore held certain beliefs that would be unthinkable today.

R. Moshe Taku was a corporealist, but he lived in a time and place where Rambam’s philosophy had not yet penetrated, and we can therefore understand why he took such a view. In the time of Rashi, living even earlier, the Spanish philosophical school had made

¹⁶ While Chassam Sofer (*Yoreh De’ah* 356) does state that the halachic process does apply to beliefs, he does not seem to mean that one can change the status of their truth, but rather that we are guiding people in terms of what they are permitted to believe.

even less impact. Today, on the other hand, that belief has been so overwhelmingly rejected that someone who overtly espouses it is making a radical break with the community and will not be tolerated. In that sense, the earlier authorities could say it, but we cannot.

Public and Private Heresies

A corollary of this understanding of the parameters of belief is that the way in which a belief is expressed is of great importance. Practically speaking, heresy means making a drastic break from the beliefs of the community, in such a way as to undermine the stability of the shared belief system. Our concern is the extent to which the espouser of such beliefs is destabilizing the shared belief system; in some cases it may be to such an extent that he can no longer be said to be a part of that shared belief system, and in turn of the community itself.

This in turn depends on how he is expressing his beliefs. Rashi's statements reflecting a corporealist view of God are not immediately apparent as such to someone for whom such a belief is unthinkable, which works greatly in his favor; indeed, nobody could conclude that Rashi was a corporealist without evaluating the convergence of evidence from all of his comments in light of that possibility, and who today is truly open to that possibility? Rambam's *Guide for the Perplexed* contains some absolutely shocking views, but it can be tolerated in a yeshivah library, since its radical positions are relatively inaccessible. But there will never be an ArtScroll elucidated *Guide for the Perplexed*. Publicizing Rambam's astonishing views on creation, miracles, providence and so on would destabilize the shared belief system of the community; someone who overtly promotes these views would be distanced.

Again, according to Rambam himself, it seems that no such distinction can be drawn. Rambam held that the spiritual reward of eternity is contingent solely upon intellectual perfection. It makes no difference whether a problematic belief is held publicly or privately; even if it is only tentatively thought of privately, it damages a person's afterlife. But most authorities do not follow Rambam in this, because they operate from a different framework of the soul and the afterlife.¹⁷ And in any case, designations of somebody as a heretic relate to

¹⁷ Menachem Kellner, in *Must a Jew Believe Anything*, develops this argument at length; however, as he freely admits in the second edition, his

how we treat the person more than to what his fate in the afterlife will be, which is God's business.

Not only does the mode of expression of a person's belief affect how he will be treated; also of great importance is the community in which this belief is being expressed, because that is also a determining factor in the degree of destabilization. A belief may be of little consequence in an intellectually sophisticated and broadly learned society, but that same belief may be very damaging in a community that is more limited in its intellectual horizons. There are some communities that are better able to tolerate diverse beliefs than others.

The Heresy of Slifkin

Now let us return to the controversy over my works, and the position of Rambam and many others that the Sages of the Talmud were not infallible in matters of science. It is clear that if one truly believes this position to be heresy—a fundamental falsification of the nature of the Talmud and the Oral Law—then it is heresy no matter when it was said or by whom. If Natan Slifkin has a horribly perverted understanding of the stature of Chazal and the nature of the holy Gemara in thinking that it could contain scientific errors, then so did Rav Sherirah Gaon, Rambam, Rav Hirsch, and the other forty or so authorities who maintained this view. I am not claiming that nobody has the right to make this claim. But most are understandably reluctant to pass such a judgment on such great Torah scholars; and it seems strange to condemn people as disrespectful for saying that the Sages lacked scientific data while simultaneously saying that the Rishonim had perverted *hashkafos*. Yet there are people who seem to think that they can accuse me of such a perverted grasp of the Talmud, and yet not be saying anything disrespectful about Rambam and the others, on the grounds that it has only now been *paskened* to be heretical. I hope that my analysis shows the fallacy of this illusion. If someone is saying it about me, they are saying it about everyone else.

Now, some of the distinguished rabbinic opponents of my work, such as Rav Moshe Shapiro and Rav Elya Ber Wachtfogel, are indeed of this position. They are of the view that someone who ascribes scientific error to Chazal is espousing genuine heresy; that is to say, such

ultimate views of where to take this argument are his alone and are very much disputable.

a person has a critically perverted understanding of the nature of Chazal and the Talmud.¹⁸ They have no difficulty passing this judgment upon me, but what about the great Rishonim and Acharonim who proposed these views? Since these opponents of mine are from a community in which their understanding of the doctrine of *yeridas hadoros* (the decline of generations) does not permit them to accuse the Torah giants of earlier generations of possessing such a fundamentally flawed attitude, this puts them in a difficult situation. When faced with works written by great Rishonim and Acharonim that state these views,¹⁹ they are thus forced to either denounce these works as forgeries, creatively reinterpret the positions of these authorities, or backtrack and claim that they were not really condemning my positions, but rather my "tone."²⁰

¹⁸ Rav Shapiro (*Afikei Mayim, Shavuos*, p. 16) claims that someone who requires empirical confirmation for a statement of Chazal's that seems scientifically impossible is a heretic; at a lecture in London (of which I possess a detailed transcript) he claimed that all Talmudic statements are Torah, and someone who rates a statement in the Talmud as being a scientific error has denied the Torah. The recently published work *Chaim B'Emunasam* by his disciple Rabbi Reuven Schmeltzer, bearing effusive approbations from Rav Shapiro, Rav Wachtfogel and others, is all about how denial of the Sinaitic origins and infallibility of anything at all in the Talmud is heresy and punishable by death. For a review and critique of this work, see <www.zootorah.com/controversy/ChaimBEmunasam.pdf>.

¹⁹ Some find it difficult to believe that these great Torah authorities were not aware of these sources to begin with. But these issues are relatively obscure issues of theology; great Talmudists and Halachists are generally not fluent in them.

²⁰ This claim is deeply problematic for several reasons. First, since most of them did not read my works, they are not in a position to judge the tone. Second, the language used in the text of the ban simply does not reconcile with a condemnation of the tone but not the content. Third, "tone" is something that varies immensely between different times, cultures and communities. Fourth, there has been a conspicuous lack of citation of examples of such problems in "tone." Fifth, since in truth these rabbis really do consider the notion of Chazal's scientific fallibility to be a genuinely heretical belief, they are obviously going to find the tone unacceptable; whereas someone who considers this belief legiti-

On the other hand, many of the rabbinic opponents of my work do not consider the position that the Talmud contains scientific errors to be genuinely heretical. They are aware that Torah giants of earlier generations maintained this belief (even if they are unaware of how prevalent this view was), and will not judge it to be fundamentally perverted understanding of the Talmud. Rav Elyashiv falls into this category; indeed, one of his own rebbeim, Rav Yitzchak Herzog זצ"ל, was of this belief, and it seems unlikely that Rav Elyashiv would consider his rebbe to have possessed a heretical, perverted understanding of the Talmud.

Therefore, when Rav Elyashiv signs a ban that states that my books are heretical, this is not to be interpreted as meaning that he believes them to be genuine heresy. The way that these bans work is that signatures from rabbinic authorities are attached by way of consent to the general thrust of the ban, rather than being signed to specific formulations. In fact, Rabbi Feldman attested that when he showed the text of the ban to Rav Elyashiv, the latter was “surprised” to see the books described as being heretical.²¹

Now, amidst rumors that Rav Elyashiv had retracted from the ban, he did later reiterate that he stands by it completely. But, as Rabbi Feldman later clarified and told me, Rav Elyashiv was of the opinion that the books “could be called” heresy—i.e., using the loose colloquial definition of the term that is so common in the *charedi* world. This means that it is a viewpoint that is strongly opposed and is absolutely socially unacceptable. But it is not literally, technically heretical—there is no absolute judgment here that this approach unequivocally reflects a fundamental perversion of Chazal, and possesses all the laws of heretical material.

It is true that in some extreme cases, even a position held by great authorities can be considered such a fundamental perversion of Judaism that someone who espouses that view is formally excluded from the community for halachic purposes. However, Rav Elyashiv does not consider my books to fall into this category, since he stated that one cannot condemn me as a heretic due to there being Rishonim

mate, and certainly someone who maintains it himself, will have a very different opinion of the “tone.”

²¹ Rabbi Feldman’s letter concerning Rav Elyashiv can be found at <<http://www.zootorah.com/controversy/ravelyashiv.html>>.

and Acharonim who themselves took such approaches. Since there is a sizeable number of significant authorities who took this stance, he is not willing and/or not able to rule so many people out of the fold.

Rav Elyashiv's position is that this approach is forbidden for the community—theologically opposed (but not unequivocally beyond the pale) and socially unacceptable. It will be tolerated in a footnote in the Schottenstein Talmud, it can be mentioned discreetly as a *bedi'eved*, but it cannot be presented up-front as a legitimate approach.

The Limits of Charedi Discourse

However, it must be noted that the above analysis can work both for me and against me. Let us recall the odd theological views recorded in *The Limits of Orthodox Theology*. As discussed, while we cannot make absolute determinations (and certainly not halachic rulings) on these issues, we can observe that they are beyond the historical consensus of the Jewish community, and rule that those who espouse such beliefs will not be tolerated. The question then becomes: Is the notion of the scientific fallibility of the Talmud something that has been overwhelmingly rejected by historical consensus, as with the corporeal views of God maintained by some Rishonim?

The answer to this is not so straightforward. On the one hand, contrary to popular belief (even held by some great Talmud scholars) that this position was advanced by only a few obscure authorities such as Rabbeinu Avraham ben HaRambam, research has proven otherwise. First of all, great authorities such as Rambam and Rav Hirsch held this view—authorities whose stature means that their views cannot be lightly dismissed. Second, as noted earlier, it has emerged that dozens upon dozens of Geonim, Rishonim and Acharonim over the ages, through today, were of this view.²² In the case of the sun's path at night in *Pesachim* 94b, the overwhelming majority of commentaries from the Geonim and Rishonim explained it to mean that the Jewish sages erred. In the times of the Rishonim this rationalist approach was prevalent; in the last few centuries, with the decline of rationalism, it has gradually dwindled in support, to the point that there are Torah scholars today who are unaware of the extent that it was supported in the past, but there have still been those

²² See <<http://TorahAndScience.blogspot.com>> for a full list of citations.

such as Rav Hirsch and Rav Herzog who kept this tradition alive, and it has experienced a resurgence in the *Torah Im Derech Eretz* and *Torah U'Madda* communities. One therefore cannot group this position together with the views of a few Rishonim concerning God's corporeality and suchlike, which became extinct.

On the other hand, the ban on my books was signed by over thirty leading Rabbinic authorities in the charedi world. And while I know of thousands of Torah scholars in that world who maintain similar views to my own, almost none would dare say so publicly. One can find the view referenced in several places in the Artscroll Schottenstein Talmud, but only obliquely. It seems to me, then, that while the historic consensus of Jewish history has certainly not rejected the rationalist approach, the charedi community certainly has, at least regarding public espousals of it. Whether one can maintain this rationalist view privately and still consider oneself a bona fide member of charedi society is, I think, open to debate.

As it happens, I think that the rejection of this approach, understood as a social policy rather than a theological rejection, has much merit. The rationalist approach is a Pandora's Box; handled incorrectly it can potentially cause more problems than it solves. Furthermore, on a communal level, it demonstrates a tendency to weaken zealous passion for Torah observance and sacrifice. A community that is insulated from the challenges of modernity, unaware of scientific discoveries, and uninterested in theology (as opposed to Talmud and halachah), is unsuited to the rationalist approach.

Yet even if one does not agree with this assessment, the charedi community still has the right to reject whatever and whomever they want. One cannot insist on membership within a club. A person can have every legitimate reason in the world to be a staunch *misnagid*, but he cannot move into Crown Heights and expect to be called up to the Torah. The charedi community has the right—for good reasons, in my opinion—to reject the rationalist approach as a social policy, no matter how superb its rabbinic credentials. That is why, in republishing my books, I considered it appropriate to package them in such a manner as to be clearly not targeted at that community.

While I am not halachically obligated to follow Rav Elyashiv's opinion (he is not my personal halachic authority, and there is no

such binding halachic construct as “the *Gadol ha-Dor*”²³), I do greatly respect his opinion, and I believe that I am acting consistently with it. “They can say it”—Rambam, Rav Hirsch, and all those of the rationalist school can adopt this approach to Torah, which is not being categorically condemned as being beyond the pale, and which may indeed be appropriate for some people—“but we cannot”—we in the Charedi community, which attributes paramount importance to unquestioning allegiance to authority, cannot. Any other interpretation of Rav Elyashiv’s words is, in my opinion, a misunderstanding that is not only insulting to the Torah giants of the past, but also sets a dangerous precedent for future “halachic rulings” in matters of belief. ❧

²³ See Asher Benzion Buchman, “Tradition! Tradition? Rambam and the Mesorah,” in *Hakirah* 8 (Summer 2009) pp. 214-215, and José Faur, *The Horizontal Society*, vol. II, pp. 157-158.