

“Truth” and Authorial Intent in the Study of Torah

By: MARC B. SHAPIRO

In an earlier article in *Hakirah*, I wrote that I hope to return to the topic of truth and authorial intent in Torah literature.¹ I am happy to do so now, if only in a briefer fashion than I originally intended. The issue I am focused on is how to determine if an interpretation of an earlier Torah text is “true,” or perhaps better, “untrue.” For many, if it is clear that the author of the work being discussed would not have offered a certain interpretation of his own words, then obviously such an interpretation proposed by a subsequent author cannot be regarded as “true.” However, is this correct? For example, even if we are certain that Maimonides would not have recognized a later commentator’s interpretation of what he wrote in the *Mishneh Torah*, does this mean that the interpretation is not valuable, or even “true”? Must we assume that this interpretation is nothing more than a form of mental gymnastics? While this matter has been discussed a great deal by literary theorists, and insights they offer can also be valuable when dealing with Torah literature, for the purposes of this essay I wish to focus on traditional rabbinic sources. While some approaches in rabbinic sources might seem similar to those proposed by literary theorists, the theological postulates of traditional rabbinic interpretation are so far removed from secular forms of analysis that it seems best in my eyes to keep the two separate.

The issue I have raised is relevant no matter who the subject of interpretation is, yet it has come up a great deal particularly in discussions of interpretations of Maimonides, so it makes sense to start our analysis here. Let me begin with a passage from R. Jehiel Jacob Weinberg on this very matter, where he is discussing R. Hayyim Soloveitchik’s approach to the study of the *Mishneh Torah*.

¹ “Response to Rabbi Asher Benzion Buchman,” *Hakirah* 8 (2009), p. 21 n. 3. Following the completion of the present article, I found an essay by Shai Akavia Wosner that deals with a number of the points I discuss. See Wosner, “Atzmaut u-Mehuyavot Parshanut,” *Akdamos* 4 (1998), pp. 9–28.

Marc B. Shapiro holds the Weinberg Chair in Judaic Studies at the University of Scranton.

While the *hiddushim* of the Gaon R. Ḥayyim are true from the standpoint of profound analysis, they are not always so from a historical standpoint, that is, with regard to the meaning of Maimonides whose way of study was different than that of the Gaon R. Ḥayyim. This does not detract from the value of this intellectual genius who is worthy of being called a “new Rambam,” but not always as an interpreter of Maimonides.²

R. Weinberg raises a very interesting issue, namely, the difference between *hiddushim* that are true from the standpoint of analysis—and exemplify Torah study at the highest level—but which are not true from the standpoint of history, what we can perhaps call the difference between Torah truth and historical truth. I have already presented some initial thoughts on this matter in an earlier article that focused on interpretations of Maimonides,³ and there is no need to repeat myself here. Indeed, I would recommend that anyone interested in the topic first read my initial article, as this present article is designed to be read in conjunction with it, and there are many sources mentioned there that I do not refer to here. In this article I would like to widen my discussion from the focus on Maimonides in order to establish the point that while historians need to be focused on historically valid interpretations, and as such are very concerned with the biography of their subject and with who might have influenced him,⁴ when speaking from the inside of the *beit midrash*, as it were,

² *Seridei Esh* (Jerusalem, 1977), vol. 2, no. 144. For other statements of R. Weinberg about the study of Maimonides in general, and the Brisker method in particular, see my *Studies in Maimonides and His Interpreters* (Scranton, 2008), Hebrew section, pp. 29–33. In a letter to R. Mordechai Gifter, dated April 24, 1961, R. Weinberg expresses regret that he never troubled himself to make the acquaintance of R. Ḥayyim. “Because of this I deprived myself of growth and lost something that can never be replaced.”

³ “The Brisker Method Reconsidered,” *Tradition* 31 (Spring, 1997), pp. 78–102.

⁴ Isadore Twersky writes :

Related to this is the attempt to see and study the *Mishneh Torah* in the context of all his writings, and to some extent in the context of his life. The former does not mean automatic transfer from one work to another, but it does mean imposing limits upon speculation and hypothetical reconstruction when Maimonides makes explicit statements about his method, motivation, or meaning... Now in completely ahistorical and systematic study, transcending time, space, and personality, various statements of Maimonides, retractions or reformulations, may be treated as so many competing, unrelated views. The early Maimonides and the later Maimonides need not be unified, may indeed be treated as individual, halakhic or philosophic,

interpretations can legitimately be proposed even if there is every reason to believe that these interpretations are not historically accurate, that is, that the source being explained never intended the idea being suggested.⁵

Before continuing, let me make one additional point. Since much of the discussion about the "historical" Maimonides relates to the Brisker method (and similar types of analysis) vs. those interpreters who believe that their approach presents a more historically sound understanding (as we have seen above from R. Weinberg), some might assume that followers of the Brisker method would automatically reject the notion that their interpretations may not reflect Maimonides' actual intent. Yet the fact is that not all followers of Brisk have this approach. For example, here is what R. Joseph B. Soloveitchik said, as recorded by a student:

Mankind is changeable in its cognitive adventures, and to say that I understand Aristotle means in the tradition of Aristotle, which, of course, has been subject to change. In halacha there is a *masoret*, a tradition as to method, but if I give an interpretation to Maimonides, it does not necessarily mean that Maimonides meant just that. If measured by halachic standards it is correct. That suffices.⁶

Similarly, after presenting a brilliant explanation of a "difficult Rambam," R. Soloveitchik acknowledged that Maimonides in one of his responsa offered a different explanation of the *Mishneh Torah*. Most *rashei*

personae. In the abstract and systematic categories of jurisprudence or metaphysics an earlier view may be more attractive or persuasive than the later one. Chronology or even an author's preference are not binding considerations. Historically, however, the authentic and final Maimonidean view should be precisely identified, for his own judgment and assent are certainly determinative.

Introduction to the Code of Maimonides (New Haven, 1980), pp. 93–94.

⁵ It would take another article to deal with critics of this approach. For one example, see R. Meir Mazuz, *Darkhei ha-Iyun* (Bnei Brak, 2022), p. 279:

מספרים על הגאון בעל "חזו"ת יאיר" שפעם הקשה קושיא עצומה בדברי הרמב"ם. היה לו חבר חריף (כמדומה הגאון בעל עבודת הגרשוני) שאמר לו תירוץ מהודד מפולפל. ענה לו ה"חזו"ת יאיר": נוה לו להרמב"ם בעולם האמת שיגידו עליו שטעה, מאשר לתרץ אותו בחידודים כאלה שמעולם לא עלו על ליבו.

R. Mazuz even states that the expression *דברי אלקים חיים* does not apply to a dispute regarding what an author held, since one of the opinions is certainly mistaken. Rather, the expression applies to two views in a substantive disagreement, such as Beit Hillel and Beit Shammai, as both sides have valid arguments. See R. Mazuz, *Makor Ne'eman* (Bnei Brak, 2022), vol. 3, no. 1300 (p. 280).

⁶ See daattorah.blogspot.com, Dec. 16, 2008. Since this is from a student's notes, one should not assume that it is a verbatim transcript. I believe that the final two sentences should be one, with a comma after the word "correct."

yeshivah in this circumstance would retract their explanation, since what good is an explanation of the *Mishneh Torah* when Maimonides himself tells us what he had in mind? R. Soloveitchik did not back down. Instead, he asserted that after the *Mishneh Torah* was written, complete with *ruah ba-kodesh* (whatever exactly he meant by this), Maimonides is not to be regarded as its “owner.”⁷

"אין הרמב"ם בעל הבית על "היד החזקה"

The same message is seen in a conversation that R. Aaron Adler had with R. Soloveitchik:

On one occasion, escorting the Rav back to his apartment after a four-hour marathon *Yabzeit Shiur*—a *Shiur* packed with sensational novellae interpreting difficult Rambam texts—I asked the Rav if he really believed that Rambam had all these great ideas in mind while writing his book. The Rav looked at me and said: “What’s the difference, was it not a good *Shiur*!?” I was somewhat stunned by the answer. The next morning, in conversing with the Rav’s son, R’ Prof. Haym Soloveitchik, he told me that it was perfectly legitimate to use a text (Halakhic or otherwise—as in the United States Constitution) to launch ideas. Irrespective whether or not Rambam entertained those ideas, the very ideas themselves must be considered authentic Torah and treated as such.⁸

In the passages I have just quoted we see that R. Soloveitchik—who after the passing of his uncle, R. Isaac Zev Soloveitchik, was the greatest exponent of “Brisker Torah”—is explicit that one need not assume that every explanation he offers of Maimonides is what Maimonides really intended. According to him, this is not the most important consideration, and does not determine whether an explanation is “true” or “false.” R. Soloveitchik’s point is elaborated by R. Aharon Lichtenstein, another outstanding exponent of the Brisker school.⁹

It may indeed perhaps be doubtful that in setting forth the Rambam’s *shitab*... that the Rambam personally intended everything that R. Ḥayyim expounds by way of its explication. And yet that should

⁷ R. Michel Zalman Shurkin, *Meged Giv’ot Olam* (Jerusalem, 2005), vol. 2, p. 7.

⁸ R. Aaron Adler, *Seventy Conversations in Transit with Ha-Gaon HaRav Joseph B. Soloveitchik* (New York, 2021), p. 72.

⁹ R. Lichtenstein’s lecture was delivered in 1984 at the Bernard Revel Graduate School of Yeshiva University. Its title is “Torat Ḥesed and Torat Emet: Methodological Reflections,” and I thank R. Hillel Novetsky for providing me with the transcript. Not everything cited here appears in the published version of the lecture found in Lichtenstein, *Leaves of Faith* (Jersey City, 2003), vol. 1, ch. 3.

not deter the exposition. The potential for the whole of R. Ḥayyim’s book—as potential—is surely latent within the raw material of the *Yad ha-Ḥazakah*, although it may have taken a genius of R. Ḥayyim’s stature to extract and elucidate it.

That is all that need concern us. Perhaps we do not divine in psychological, subjective terms the Rambam’s intention, but, on the other hand, neither are we studying ourselves. We are studying the texts, the concepts, the raw material to be found within the Rambam and mined therefrom. *Kol asher talmid atid le-biḥadesh ne’emar al yedei Rabbenu Moshe ben Maimon*. Would the Rambam have recognized his own recast handiwork? Probably not. [R. Lichtenstein then quotes the talmudic passage in *Menahot* 29b that describes how Moses could not fathom R. Akiva’s method of expounding the Torah, and applies the lesson of this passage to Maimonides’ works. He concludes:] *Ḥakhmei Yisrael*, too, have then their *Torat Emet*—that which is, as best as can be perceived, an accurate statement of their conscious and willed position—and their *Torat Hesed*—the increment they have contributed to the world of halakhah which can then lead its own life and be understood in its own terms, both as an independent entity and in relation to other halakhic elements.

On other occasions, R. Lichtenstein told his students that the real purpose of R. Ḥayyim’s *ḥiddushim* is not to reconcile contradictions in Maimonides, “but to reveal the light of Torah that shines between the lines of every *sugya* and clarifies its deepest foundations.”¹⁰ What I think this means is that R. Ḥayyim’s great work should not be regarded as a commentary on the *Mishneh Torah*, in the way we usually think of commentary, but rather as a work that uses the *Mishneh Torah* as an inspiration for its conceptual analysis.

With regard to practical halakhah, however, R. Lichtenstein sees authorial intent as crucial:

If one indeed assumes that in learning *risbonim*, interpreting them, we can find content but not necessarily intent, this is well and good to the extent that we are simply trying to plumb the depths of Torah proper. However, the moment that, in dealing with *pesak*, we seek to invoke their authority and to insist that a particular point of view be adopted because the weight of the Rambam or the weight of the

¹⁰ The quotation is R. Elyakim Krumbein’s description of R. Lichtenstein’s position. See “On Rav Lichtenstein’s Methodology of Learning,” *Alei Etzion* 12, p. 29, available at <https://haretzion.org/torah/yeshiva-publications/154-alei-etzion>. R. Krumbein adds: “Nevertheless, we hardly find any *ḥiddushim* of Rav Chayim that do not grow out of the struggle to resolve textual difficulties.”

Rashba is behind it, then of course the element of intent—whether indeed this was the clearly stated and articulated position of the Rashba or the Rambam proper—becomes a far more critical and crucial consideration than when we simply are learning with excitement and passion in the confines of the *Beit Midrash*. That is a consideration which those who are concerned with *pesak* I think should bear in mind.¹¹

Returning to matters of theoretical analysis, R. Chaim Navon, a student of R. Lichtenstein, follows the path we have seen and writes: “It is doubtful if R. Hayyim of Brisk and R. Meir Simḥah ha-Kohen of Dvinsk, among the greatest commentators on the Rambam, really thought that their fine distinctions [in the Rambam] were what ‘the Great Eagle’ had in mind.”¹² R. Navon assumes that they understood the *Mishneh Torah* as a work that stands on its own, apart from its author, and this allows one to build upon it ever more profound levels of analysis that may have no connection to authorial intent. R. Navon also cites R. Joseph B. Soloveitchik’s report that his grandfather, R. Hayyim, said that we should not ask about contradictions between the *Guide* and the *Mishneh Torah*.¹³ For R. Navon, such a position does not make sense if we are trying to understand what Maimonides historical view actually was. However, R. Navon claims that this approach makes perfect sense if you assume that the *Mishneh Torah* has an “independent existence, which is not dependent on the intentions of its author.”¹⁴ In support of this approach, that in explaining *rishonim* we are interested in the *shitah* as it stands by itself, not what the *rishon* personally intended, R. Navon cites R. Moses Sofer who writes that

¹¹ R. Lichtenstein, “Torat Hesed and Torat Emet: Methodological Reflections.” See also R. Lichtenstein quoted in Haim Sabato, *Seeking His Presence: Conversations with Rabbi Aharon Lichtenstein* (Tel Aviv, 2016), p. 262:

I agree that when it comes to formulating a *psak*, to issuing a legal ruling, one must be more careful. Because when you cite a ruling of the *Anvei Nezer*, you are not simply citing what he wrote, but you are quoting *him*; you are relying on the personal authority of the author. When formulating a *psak* you must be more careful than when you are raising analytic possibilities that the author may not have intended. So I try to keep this in mind.

¹² Navon, “Ha-Limud ha-Yeshivati u-Meḥkar ha-Talmud ha-Akademi,” *Akdamot* 8 (5760), p. 138.

¹³ See R. Zvi Yosef Reichman, *Reshimot Shiurim: Sukkah* (New York, 2000), p. 258.

¹⁴ Navon, “Ha-Limud ha-Yeshivati u-Meḥkar ha-Talmud ha-Akademi,” p. 138.

the accepted practice is to connect one’s understanding with that of an earlier sage, but it is not crucial that the sage really had this in mind.¹⁵

ואם לא היתה זאת דעת הרמב"ם מכל מקום אם הדברים אמתיים יש לנו לפסוק
הדין כך מפני הטעמים שכתבתי אני רק שדרכנו בדור הזה לתלות באילן גדול.

According to R. Navon, it is precisely due to this approach that we can focus on explaining halakhic positions without taking into account historical or psychological explanations. This approach also fits in well with R. Navon’s understanding that talmudic study “is a creation, and not an uncovering.”¹⁶ By this he means that when we study ‘Talmud and *rishonim*, and offer original insights, we are actually *creating* something new, what we call *hiddushim*, not simply *uncovering* that which was latent.¹⁷ The implication of this, R. Navon adds, is that there is not simply “one truth” waiting to be revealed. Rather, there can be multiple Torah truths all in explanation of the same text. The fact that it is impossible for all of these explanations to have been *intended* by the author of the text is of no consequence.

R. Chaim Rapoport has pointed out that there is a good deal of difference between explaining Maimonides in a way that he never intended

¹⁵ *She’elot u-Teshuvot Hatam Sofer*, vol. 7, no. 21. See also R. Eliezer Berkovits, “Halachah, Bastion or Pathway?” *Jewish Spectator*, Nov. 1953, pp. 15–16:

The commentators of the Talmud are not always genuine interpreters; often, solving problems of interpretation, they transform the Talmudic text into the starting point of halachic concepts by which one may safely say that they were not thought of by the original teachers of the Talmud themselves... Even though the “interpreters” often created fresh concepts of Halachah, the stimulus and the ability to create they owed to their preoccupation with Halachah; they themselves were imbued with the spirit of the Halachah and their creations were its own offshoots. In a sense, the new meaning too was meant to be understood.

¹⁶ “Ha-Limud ha-Yeshivati u-Mehkar ha-Talmud ha-Akademi,” p. 140.

¹⁷ This is also how R. Joseph B. Soloveitchik understands the concept of *hiddush*. Here is Lawrence Kaplan’s description of the Rav’s approach:

[F]or the Rav, this activity [i.e., his *hiddushim*] is not an activity of discovery, but an activity of creative postulation. Thus, as the Rav explicitly states: “When the *gaon* raises his vision to the level of logical thought, he begins with an act of *spontaneous creation* [emphasis added] which does not explain the empirical given but gives rise to abstract constructions.” ... In a word, *hiddush*, for the Rav, is not so much a result of insight, as it is an expression of intellectual *creativity*.

“The Multi-Faceted Legacy of the Rav: A Critical Analysis of R. Hershel Schachter’s *Nefesh ha-Rav*,” *BDD (Be-Khol Derakbekha Da’ehu)* 7 (1998), p. 66.

and explaining Maimonides in *direct opposition* to what he himself explicitly stated was his intention.¹⁸ However, even this approach, which many will see as basic common sense, has not achieved uniform acceptance. We have already seen the notion that Maimonides does not “own” the *Mishneh Torah*, that is, even Maimonides does not have an exclusive right of interpretation to this work. There are different ways to understand this, one of which is that the *Mishneh Torah* has a life of its own. An alternative approach is that Maimonides reached the height of his creative powers in writing the *Mishneh Torah*, which means that his later elucidations have a lesser authority and might even date from when Maimonides was much older and no longer remembered what stood behind a formulation in the *Mishneh Torah*.¹⁹

R. Eliyahu Soloveitchik discusses an example where Maimonides’ explanation of a halakhah in the *Mishneh Torah* will not satisfy anyone who has been raised on *lomdus*, and indeed it did not satisfy R. Ḥayyim.²⁰ As R. E. Soloveitchik sees it, had R. Ḥayyim accepted Maimonides’ explanation of his formulation in the *Mishneh Torah*, it would mean pulling the rug from underneath R. Ḥayyim’s own approach. There is even a case where Maimonides states that the text of the *Mishneh Torah* contains an error, and we find that R. Ḥayyim ignored Maimonides’ own testimony.²¹

R. E. Soloveitchik explains that when R. Ḥayyim confronted varying texts of the Talmud or Maimonides he did not ask the question most of us do, namely, which is the historically accurate text, the “authentic” text? Rather, he related to different texts just like any other dispute in how to understand the *snugga*, and felt that “one should learn both of them equally, and these and those are the words of the living God.”²² What this means,

¹⁸ See his letter in *Or Yisrael* 55 (Nisan 5769), p. 252.

¹⁹ See my “Brisker Method Reconsidered,” pp. 87–88.

²⁰ Eliyahu Soloveitchik, “Le-Ḥiddushei Rabbi Ḥayyim ha-Levi al ha-Rambam,” *Datche* 4 (10 Ḥeshvan 5768), pp. 3–4, *ibid.*, 16 (23 Kislev 5768), pp. 5–6.

²¹ See *Hilkebot Nizkei Mamon* 4:4, *Teshuvot ha-Rambam*, ed. Blau, no. 433. R. Ḥayyim knew of Maimonides’ responsum as it is quoted in *Kesef Mishneh*. There is a tradition in the Soloveitchik family that R. Ḥayyim did not “like” the twenty-four responsa of Maimonides to the sages of Lunel. See Isadore Twersky, *Introduction to the Code of Maimonides*, p. 94, note 171. For what seems to be another contradiction between the responsa of Maimonides and R. Ḥayyim’s *hiddushim*, see R. Isser Yehudah Unterman, *Shevet mi-Yebudah* (Jerusalem, 1994), vol. 3, pp. 340–341. See also my “Brisker Method Reconsidered,” p. 98 n. 34.

²² Eliyahu Soloveitchik, “Le-Ḥiddushei Rabbi Ḥayyim ha-Levi al ha-Rambam (2),” *Datche* 16 (23 Kislev 5768), p. 6.

R. E. Soloveitchik explains, is that R. Hayyim had no interest in establishing the historical facts, as he wanted to understand the underlying Torah logic. Since the mistaken text of the *Mishneh Torah* that R. E. Soloveitchik is discussing was explained by the *Maggid Mishneh*, this means that it has an underlying Torah logic even if it was not Maimonides’ actual opinion, and this logic is what R. Hayyim focused on.²³

What I think many readers will be surprised to learn is that the notion we have been discussing, that our interpretations need not coincide with the intent of the authors, is found in a number of traditional sources. In fact, R. Nahman Greenspan claims that this is an essential element of Torah study, namely, explaining the approach of earlier scholars in a manner which, though valid in and of itself, would have been foreign to these scholars. The reason for this, he explains, is because in reality what we are doing is explaining the *shitah*, not the individual. It thus does not matter if say Rashi or Maimonides ever intended our explanation, since the explanation stands on its own and can be true even if it was not what Rashi or Maimonides intended.²⁴ Isn’t this notion, that Torah explanations can be “true” even if they do not correspond to authorial intent, also the implication of the famous talmudic story about the “oven of Akhnai” (*Bava Metzvia* 59b)? Here, God Himself reveals His intention, but R. Joshua rejects this heavenly intervention and proclaims, “the Torah is not in heaven.” God acknowledges the correctness of this point, for it is His will that after the Torah was given it be explained through human intellect, even when the human conclusions diverge from authorial (or rather, Authorial) intent.²⁵

²³ For others who explained the inaccurate *Mishneh Torah*, *Hilkhot Nizkei Mamon* text, and also decided the halakhah in accordance with it, see my “Brisker Method Reconsidered,” p. 87.

²⁴ *Pilpulah shel Torah* (London, 1935), p. xviii:

וכי מה איכפת לנו אם רש"י והרמב"ם לא כוונו לזה, העיקר הוא לישב את השיטה, אם הדבר עולה בידינו בלי פלפולים רחוקים והרכבות מסובכות, ואם בעל השיטה לא העלה על לבו דבר זה אין הדברים אובדים את ערכם המדעי, וכי בשביל שבעל השיטה לא העלה על לבו את הענין לא יכול להיות אמת?

A colleague remarked that the implication of R. Greenspan’s understanding is that there is no longer a necessity that there be consistency of interpretation even when dealing with one book, such as the *Mishneh Torah*. If the focus is on the *shitah*, not the individual, then internal contradictions cease to be a concern.

²⁵ See e.g., R. Nissim Gerondi, *Derashot ha-Ran*, ed. Feldman (Jerusalem, 1977), pp. 44–45, 84, 112, 198–199; R. Hasdai Crescas, *Or ha-Shem*, 3:5:2; R. Joseph Albo, *Sefer ha-Ikkarim*, 3:23; R. Samson Bacharach, *Hut ha-Shani*, no. 53; R. Aryeh Leib ha-Kohen, *Ketzot ha-Hoshen*, Introduction; R. Moshe Feinstein, *Iggerot Moshe, Orah*

R. Moshe Soloveitchik (Zurich) elaborates on the matter of authorial intent in speaking about the sages of the Talmud. He notes that one need not assume that all the explanations offered to explain a sage's statement were intended by him. However, since the words of the talmudic sages are words of Torah, and the possible explanations of Torah are endless, therefore it makes sense that one can derive teachings from the sages' words even if they did not intend this. R. M. Soloveitchik also quotes R. Baruch Ber Leibowitz that there is value in explaining a passage in the *Mishneh Torah* so that it does not contradict our text of the Talmud, even if we see from a responsum of Maimonides that he had a different version of the Talmud, meaning that our original difficulty is no longer a problem. In the specific case R. Baruch Ber was asked about, the *Maggid Mishneh* did not know that Maimonides had an alternate text of the Talmud, and nevertheless he had no difficulty with Maimonides' formulation. Therefore, we must explain how the *Maggid Mishneh* understood Maimonides, despite the fact that this is not what Maimonides intended.²⁶ Finally, R. M. Soloveitchik mentions a story where R. Naftali Zvi Judah Berlin explained Maimonides' halakhic formulation, and it was then pointed out to him that Maimonides himself in a responsum explained the halakhah differently. Rather than retracting what he said, the Netziv replied: "This is Maimonides' explanation for what he wrote in the *Mishneh Torah*, but there is still room for additional explanations, because there are seventy facets to the Torah."²⁷

Related to this is the interesting phenomenon that the Vilna Gaon explains rulings of the *Shulhan Arukh* differently than how R. Joseph Karo himself explains the matter in the *Beit Yosef*. R. Yaakov Triebitz states that this should not be viewed as a difficulty since the Jewish people accepted the *Shulhan Arukh* as a binding code, but they never accepted as binding

Hayyim I, Introduction; R. Yaakov Yisrael Kanievsky, *Karyana de-Igarta* (Bnei Brak, 1986), vol. 1, p. 65. See also Izhak Englard, "Tanur shel Akhnai—Perusheha shel Aggadah," *Shenaton ha-Mishpat ha-Ivri* 1 (1974), pp. 45–56, *idem*, "Majority Decision vs. Individual Truth," *Tradition* 15 (Spring-Summer, 1975), pp. 137–152.

²⁶ I have recorded what appears in R. M. Soloveitchik's book, but I believe the story to be garbled and it was originally stated with regard to *Mishneh Torah*, *Hilkhot Nizkei Mamon* 4:4 (see above, n. 20). Here the *Maggid Mishneh* explains Maimonides' words, unaware of Maimonides' responsum which states that the text of the *Mishneh Torah* used by the *Maggid Mishneh* contains an error.

²⁷ *Ve-ha-Isb Moshe* (Kiryat Sefer, 2001), p. 161.

the rulings of the person, R. Karo.²⁸ Thus, R. Triebitz explains, as long as the explanation offered by the Vilna Gaon is consistent with the words of the *Shulhan Arukh*, then this is enough, because there is no assumption that the explanation is actually what R. Karo had in mind.²⁹ It is worth noting that R. Hayyim Gedaliah Tzimbalist puts the matter differently, stating that the Vilna Gaon did not really write a commentary on the *Shulhan Arukh per se*, but only on the laws of the *Shulhan Arukh*. According to him, this explains how the Vilna Gaon is able to give sources for laws that neither R. Karo nor R. Moses Isserles had in mind, or even emend the text of the *Shulhan Arukh* when it is clear from the *Beit Yosef* that there is no error in the *Shulhan Arukh*'s text. If the Gaon's point is to explain the law itself, rather than R. Karo's *Shulhan Arukh*, then when he sees a mistake in the *Shulhan Arukh* he can emend the text.³⁰

Returning to my main focus, in the 1880s R. Isaac Jacob Reines published his works *Hotam Tokhnit* and *Urim Gedolim* which presented a new “logical” approach to the Talmud. Much like people criticized the Brisker approach, they also criticized R. Reines, and his approach never succeeded in finding an audience in the yeshivot.³¹ R. David Cohen, the famed Nazir,

²⁸ This is indeed the approach in the Moroccan tradition, for Moroccan halakhists have argued that as far as practical halakhah is concerned, it does not matter if R. Karo changed his mind in his post-*Shulhan Arukh* writings and corrected his code. This is because the halakhah is not decided based upon R. Karo's final ruling, but upon the book that has been accepted, namely, the *Shulhan Arukh*. See R. Joshua Maman, *Emek Yehoshua*, vol. 2, p. 269; R. Shalom Messas, *Shemesh u-Magen*, vol. 1, *Orah Hayyim*, nos. 12 (p. 35), 15 (pp. 51–52), 25 (pp. 76–77), *Shemesh u-Magen*, vol. 2, *Yoreh Deah*, nos. 42–43; and the sources cited by R. Yaakov Hayyim Sofer, *Shem Betza'el* (Jerusalem, 1995), no. 37, and R. Mordechai Akiva Aryeh Lebar, *Kelalei ha-Hora'ah le-Fi Minhag ha-Ma'arav* (n.p., 2022), pp. 22ff.

²⁹ Triebitz, “Sefer Piskei ha-Gra,” *Yeshurun* 38 (2018), p. 655.

³⁰ Tzimbalist, “Le-Darko shel Ha-Gra be-Veurav la-Shulhan Arukh,” *Moriab* 247–249 (Shevat 5758), pp. 43–44.

³¹ See, e.g., the anonymous article in *Ha-Peles* 5 (1903), pp. 673–674, in which the author regards R. Reines' approach as falling into the category of “that which is new is forbidden by the Torah.” See also the strong criticism in R. Naftali Zvi Judah Berlin, *Meshiv Davar*, vol. 5, no. 44. For R. Abraham Isaac Kook's criticism of R. Reines' method, see *Ma'amrei ha-Reiyah* (Jerusalem, 1984), p. 380. See also R. Elazar Preil's introduction to R. Joshua Joseph Preil, *Ketavim Nivharim* (New York, 1924), p. x, that R. Joseph Joshua Preil assisted R. Reines in the editing of *Hotam Tokhnit*. I learned of this from Yehudah Mirsky, *Towards the Mystical Experience of Modernity: The Making of Rav Kook, 1865–1904* (Boston, 2021), p. 79 n. 166.

reports that he asked R. Reines if his interpretations of the sages' aggadic statements are what they indeed intended. R. Reines replied that "If the ideas are correct, that is the main thing." Similarly, the Nazir states that he asked R. Moses Mordechai Epstein if the explanations he offered for halakhic texts of *Hazal* are what the sages really intended, and R. Epstein replied that what is important is that the *sevarot* are correct, not that the sages actually intended these explanations.³² While the Nazir notes that he was not comfortable with what R. Reines and R. Epstein told him, because in his mind any ideas or *sevarot* suggested must be an attempt to explain what the sages actually had in mind in their statements, both aggadic and halakhic, we see that these distinguished figures disagreed.

The rationale of those who disagreed with the Nazir's point is exactly what we have seen already, namely, that our explanations of the sages and the *rishonim* need to be consistent with the language being interpreted, but this does not mean that the talmudic sage or *rishon* actually intended that which we, the interpreters, are able to draw out from his words. Torah is such that it is expanded through analysis, and "new" Torah is created. In other words, a *hiddush*, according to this approach, is not simply *revealing* that which is latent. It can also mean a completely new understanding that was not even apparent to the person whose writings you are explaining, a concept that, as we have seen, R. Lichtenstein refers to as *Torat Hesed*.

It is noteworthy that the very idea that the Nazir found so troubling is justified by none other than his teacher, R. Abraham Isaac Kook. (The Nazir's conversations with R. Reines and R. Epstein took place before he met R. Kook.) In one of his recently published writings, from before his 1904 *aliyah*, R. Kook states that explanations of both the Bible and the sages need not be based on authorial intent, namely, "the intent of the prophet in his prophecy and the intent of the sages at the time they expressed their statement."³³ He provides a proof for this in that R. Akiva is described as offering insights into the Torah that were not known by Moses, even though it was Moses who prophetically proclaimed the words of the Torah.³⁴ R. Kook also notes that the Talmud explains the name of the city of Tiberias in a way to show praise to the city, rather than explaining that it was named after a Roman Emperor.³⁵ The point again

³² *Mishnat ha-Nazir* (Jerusalem, 2005), p. 17.

³³ *Kevatzim mi-Ketav Yad Kodsbo* (Jerusalem, 2008), vol. 2, p. 21.

³⁴ *Menahot* 29b.

³⁵ *Megillah* 6a: "Why was it called Tiberias? Because its appearance is good [*tohav re'iyatab*]." There are a number of such examples of "Judaizing" Greek words. See e.g., R. Israel Lipschitz, *Tiferet Yisrael (Boaz)*, *Pesachim* 10:8 (note 3). According

is that explanations need not be tied to authorial intent. R. Kook does not regard the explanation of the name “Tiberias” as simply a midrashic derivation offered for some purpose, but as reflecting the reality of the city. He relates this to R. Meir seeing significance in people’s names in ways that had nothing to do with the actual meaning of the name, but R. Meir was able to go beneath the surface, beyond the authorial intent as it were.³⁶

R. Kook acknowledges that the first step of study is to understand a text in accord with the intent of its author. He also notes that Maimonides was not in favor of interpretation that moves away from authorial intent. Presumably, he has in mind Maimonides’ comment in the introduction to the *Guide of the Perplexed* where he criticizes those who have “extravagant fantasies” in that they desire “to find certain significations for words whose author in no wise had in mind the significations wished by them.”³⁷ In other words, if the author did not intend the meaning suggested, then the interpretation is of no value.³⁸

R. Kook, however, offers a different perspective than Maimonides, and notes that “one should not condemn analysis that is far from the intent of the person who said it [the passage being interpreted], for even if [what is being suggested] is far from his intent, it is not far from the intent of God, who arranged matters so that this teaching would come to us, and He caused us to be attuned to its value.”³⁹ In other words, when thinking about what is valuable when it comes to explaining Torah texts, it is not only authorial intent that matters, as there is also divine intent. If this divine intent can be derived from prophetic and rabbinic passages, then the explanation is of value—what we can call “Torah truth”—even if the authors of the prophetic and rabbinic passages had no awareness of the explanation offered.

R. Kook further notes that just as we recognize that the money we earn is due to divine providence, even though we work for it, so too any

to R. Hayyim Hirschensohn, the replacement of the real origin of the name “Tiberias” with the “midrashic” derivation was due to Jewish hatred of Emperor Tiberius on account of his anti-Semitic persecution of the Jews of Rome. See *Yalkut Ma’aravi* (New York, 1904), p. 56.

³⁶ *Yoma* 83b.

³⁷ *The Guide of the Perplexed*, trans. Shlomo Pines (Chicago, 1963), p. 14.

³⁸ Maimonides also stresses the necessity of interpretation aligning with authorial intent in his commentary on Hippocrates. See *Maimonides’ Commentary on Hippocrates’ Aphorisms*, trans. Gerrit Bos (Leiden, 2020), pp. 32–35. Such sentiments can easily be multiplied. See e.g., Gersonides’ introduction to his commentary on the Song of Songs.

³⁹ *Kevatzim mi-Ketav Yad Kodsho*, vol. 2, p. 22.

truths we derive from Torah texts cannot be an accident. Rather, it is God's providence leading us to recognize these truths, even when the authors did not have these points in mind when they wrote their texts. R. Kook acknowledges that not everyone is able to offer explanations without regard to authorial intent, and for the average person, Maimonides' words are on target. However, R. Kook is certain that for those who are at a high level, such as the talmudic sages, interpretations that go beyond authorial intent and reveal additional layers of meaning are an integral part of Torah exegesis. R. Kook specifically mentions the talmudic sages as those who can interpret in this fashion, but one should not assume that he is limiting this type of interpretation to them. This can be seen by the statement quoted in the previous paragraph where R. Kook is speaking to his contemporaries.⁴⁰

While until now we have focused on nineteenth- and twentieth-century authors, the notion that an explanation can have value even if not "true"—that is, in accord with the author's intent—has a longer history in rabbinic literature. Although I have not found this idea in any of the classic *rishonim*, it is expressed by the medieval kabbalist R. Todros ben Joseph Abulafia with reference to his mystical explanations of one of the Psalms. R. Abulafia is candid in acknowledging that David may have had a different intention in mind, but he still sees value in his own explanations:⁴¹

ואין אני גוזר ומקיים שדוד המלך ע"ה נתכוין לכונתי במזמור הזה הלילה לי,
אמנם כדי לגלות אליך את לבי עתה באתי לישב פסוקי המזמור על נתיבות דרכי
החכמה הנעלמה כפי אשר תשיג יד שכלי הקצר.

The same approach was adopted by none other than the heavenly Maggid who appeared to R. Joseph Karo. He told R. Karo that God was pleased with two explanations of Maimonides that he had proposed. He added that even though the first explanation R. Karo offered was not correct (דלאו קושטא איהו)—which means that it wasn't what Maimonides intended⁴²—nevertheless, he should not erase it because "the honor of God

⁴⁰ For an analysis of other relevant passages from R. Kook, where we also see the value of explanations that do not correspond to authorial intent, see Tzachi Slater, "Bein Perush le-Veur: Haguto ha-Hermeneutit shel ha-RAY" H Kook," *Hagut* (2011–2014), pp. 104ff.

⁴¹ *Sha'ar ha-Razim*, ed. Erlanger (Bnei Brak, 1986), p. 15.

⁴² That for the heavenly Maggid "true" equals authorial intent is seen in his words: מה שפלפלת אתמול על הרמב"ם ז"ל ב' הדברים אמת הם והרמב"ם שמח בכך על שירדת לסוף דעתו.

arises from it.” In other words, a good explanation, even if incorrect, must be seen as a real contribution to Torah study that gives honor to God.⁴³ I don’t think we can get any clearer that when it comes to Torah study, valued Torah interpretation is not only defined by authorial intent.⁴⁴

A similar story is told by R. Hayyim Joseph David Azulai (Hida), but this time it focuses on the Zohar, not Maimonides. R. Azulai records how the great Moroccan rabbi R. Abraham Azulai of Marrakech (not the Hida’s forefather of the same name) and R. Solomon Amar disputed the meaning of a passage in the Zohar. After R. Amar’s death he appeared in a dream to R. Abraham Azulai and told him that his explanation of the Zohar is “true, but R. Shimon Ben Yoḥai did not intend this.”⁴⁵ Here we see that a “true” explanation can encompass more than simply what the author intended.

The same idea is stated by R. Joshua Falk, author of the *Perishah*. After offering an explanation of R. Jacob Ben Asher in the *Tur*, R. Falk writes:⁴⁶

ואף שקרוב לודאי שאין כוונת רבינו כאן לזה מכל מקום כתבתיהו דהא אינו מוציא
מידי פשוטו.

Maggid Meisharim, Parashat Va-Yakbel, mahadura batra (p. 194 in the Petah Tikva, 1990 edition).

⁴³ *Maggid Meisharim, Parashat Va-Yakbel, mahadura batra* (pp. 194–195 in the Petah Tikva ed.). See also *ibid.*, *Parashat Va-Yakbel, mahadura kamma* (p. 182 in the Petah Tikva ed.):

וגם על מה שכתבת שם על יעקב דחילי [ר' יעקב בעל הטורים] שאין דבריו מבוארים, אמת ויציב הוא. ומה שפלפלת ליישב דבריו קב"ה שמח בהאי פלפולא אבל הוא לא לכך נתכוין.

Ibid., *Parashat Va-Yakbel, mahadura batra* (p. 197 in the Petah Tikva ed.):

ובהנהגו ג' תירוצים דתרצת אליביה תירוצא בתראה לאו קושטא ומ"מ לא תמחוק יתיה, דיקריה דקב"ה סליק בפלפולא אע"ג דלאו קושטא אינון.

Ibid., *Parashat Nitzavim* (p. 358 in the Petah Tikva ed.):

ואומר הלא אע"פ שלפעמים אני מפרש שום פירוש על פסוק שאינו כן, הלא לפי מאי דאיהו ברעותך אני אומר. ומ"מ פירוש דאמינא קושטא איהו.

⁴⁴ In R. Shimon Hirschler’s edition of R. Akiva Eger, *Otiyot de-Rabbi Akiva* (London, 1979), R. Hirschler includes explanations offered by R. Eger that R. Eger himself later rejected. R. Hirschler justifies doing so by citing the words of the *Maggid* to R. Karo, which show that even incorrect explanations can be regarded positively by God. See *ibid.*, p. 19.

⁴⁵ *Batei Nefesh* on Passover Haggadah, in Azulai, *Otzar Perushei Hagadah shel Pesah* (Jerusalem, n.d.), p. 4b.

⁴⁶ *Yoreh Deah* 87.

Although R. Falk acknowledges that it is extremely unlikely that his suggestion is what the *Tur* had in mind, he still sees it as having value.⁴⁷

The most famous elaboration of this idea is expressed by R. Jonathan Eybeschuetz, who states that many halakhot are contained in the short words of R. Joseph Karo and R. Moses Isserles in the *Shulhan Arukh*. By this he means that halakhot have been derived from their language. Yet did R. Karo and R. Isserles intend everything that *apharonim* have learned from their words? R. Eybeschuetz states that “there is no doubt” that they did not intend all that has been attributed to them. Rather, it was through God’s spirit within them that so much was able to be included within their words, “without the intention of the author.”⁴⁸ This means that the original intent of the author has been supplemented with what can be termed divine intent. To put it another way, it means that when it comes to Torah, the interpretations that we derive from an author’s words need not reflect his conscious intention, and correspondence with conscious authorial intent need not be how we judge the quality of an explanation.

וקיימו וקבלו חכמי הדור לשמור ולעשות ככל האומר במטבע הקצר ש"ע והגהת רמ"א. ולדעתי אין ספק כי הכל בכתב מיד ה' השכיל על ידם כי קושיות רבות שהקשו עליהם אחרונים ותירצו בדרך חריף ועמוק וכמו כן כללו במתק וקוצר לשונם דינים הרבה ולאין ספק שלא כוונו להכל כי איך היה אפשר לרב המלאכה מלאכת שמים שהיה עליהם ומי הוא הגבר שיעשה חיבור על כל התורה לקוח מכל דברי הראשונים ואחרונים ולא יכבד עליהם מלאכה מלאכת שמים רק רוח ה' נוססה בקרבם להיות לשונם מכון להלכה בלי כוונת הכותב וחפץ ה' בידם הצליח.

The same idea was later expressed by R. Moses Sofer, and he cites R. Eybeschuetz. He notes that we can interpret R. Karo in a certain way even if R. Karo did not intend this. Since God is really “in charge,” and He ultimately arranges matters, therefore an explanation can still be valid despite not being what R. Karo meant⁴⁹:

⁴⁷ R. Falk writes *קרוב לודאי* which might imply that if he was absolutely certain that his idea was not what the *Tur* had in mind, he would not have suggested it.

⁴⁸ *Urim ve-Tumim* (Jerusalem, 2010), vol. 1, *Kitzur Tokfo Kohen*, no. 124 (p. 197). A number of the sources I cite that refer to R. Eybeschuetz’s formulation are mentioned by R. Yaakov Hayyim Sofer, *Berit Yaakov* (Jerusalem, 1985), no. 41.

⁴⁹ *She’elot u-Teshuvot Hatam Sofer, Even ha-Ezer*, vol. 2, no. 102. See Maoz Kahana, “Ha-Ḥatam Sofer: Ha-Posek be-Einei Atzmo,” *Tarbiz* 76 (2006), pp. 547–548. It is noteworthy that despite the Ḥatam Sofer’s comment, in the particular case he was discussing R. Joseph Karo in his *Bedek ha-Bayit* retracted what he wrote, viewing it as an error. R. Sofer knew of this retraction but still offered his explanation. See R. Yosef Aryeh Lorincz, *Pelaot Edotekha* (n.p., 2008), vol. 1, p. 124. R. Sofer’s words in his commentary to *Hullin* 142a are perhaps relevant:

ואם אולי הרב"י לא כיון לזה מ"מ האלקים אנה לידו להמתיק בלשון קולמסו שיהיה אותו הצדיק ניצל מאותו השגיאה כי כן אורחות נותן התורה ית"ש עם כל עוסקי תורתו לשמה להכחיד תחת לשון קולמוסם והצלה משגיאותינו ואם יתורצו בדוחק עכ"פ לא תצא תקלה מתחת ידם וכן כתב בתומים בסי' כ"ה.

Elsewhere, R. Sofer makes the same point about a comment of R. Moses Isserles in the *Shulhan Arukh*. While he acknowledges that what he suggests is not what R. Isserles had in mind, he still claims that the idea can be supported by R. Isserles' language.⁵⁰

ואף ע"ג שהרמ"א לא כיון לכך שהרי לא הביא מזה כלום בד"מ [בדרכי משה] מ"מ ראויים הדברים לאומרם ונתכוונו ממילא בלשון ההג"ה.

R. Abraham Zvi Eisenstadt writes as follows, explicitly acknowledging R. Eybeschuetz's earlier formulation⁵¹:

שאפשר ליישב דברי הב"ח שלא הוציא תקלה מתחת ידו, ושאפשר לכיוון בדברי מה שלא כיון בעצמו, כי רוה אלקים בקולמסן של רבותינו הראשונים ז"ל להיות לשונם מכוון להלכה בלי כוונת הכותב, וכמו שכתב התומים.

R. Wolf Boskowitz, although he does not mention R. Eybeschuetz by name, appears to be clearly influenced by the latter's formulation. After offering an explanation of why Maimonides begins the *Mishneh Torah* the way he does, R. Boskowitz adds⁵²:

האמנם ידעתי כי לא כיוון לזה הטעם אבל רוה ה' דבר בו ומלתו על לשונו.

R. Tzadok ha-Kohen elaborates on R. Eybeschuetz's position and states that God ensured that the words of the *Shulhan Arukh* (including R.

כל הסברות והס"ד והה"א שעלה בדעתו בתחלה לא ישיבו ריקם לגמרי כי יש בהם אור ה'.
⁵⁰ *Ĥatam Sofer al Masekhet Shevuot u-Masekhet Niddah ve-Hilkhot Niddah* (Warsaw, 1902), *Hilkhot Niddah* 186:2 (p. 46b). See also *Ĥatam Sofer: Derashot*, vol. 1, p. 26b, who writes as follows regarding the *Anshei Keneset ha-Gedolah* who formulated the prayers:

ואין ספק אצלי שאפילו המסדרים עצמם [אנשי כנסת הגדולה] שהזמין להם הקב"ה סידור הלז הם בעצמם לא ירדו עד תוכן עומק כוונתו.

R. Sofer's words assume even greater significance when it is recalled that according to *Megillah* 17b there were prophets among the *Anshei Keneset ha-Gedolah*. See also Maimonides, *Mishneh Torah*, Introduction.

⁵¹ *Pithei Teshuvah, Even ha-Ezer* 17:134.

⁵² *Seder Mishnah, Hilkhot Yesodei ha-Torah* 1:1. See, similarly, R. Menaḥem Mendel of Vitebsk, *Peri ha-Aretz, parashat Lekh Lekha* (p. 42 in the Jerusalem, 2011 edition): והנה הרמב"ם ז"ל כתב טעם למצות מילה להתיש כח המתאוה והאמת כי הוא ז"ל הוציא מפיו הקדוש דברים אמתיים העומדים ברומו של עולם אעפ"י שלא כיון בהם.

Moses Isserles' notes) are “on target” even when the authors did not intend it.⁵³ He also explains that it is precisely because the *Shulhan Arukh* was written with divine inspiration that it is appropriate to find hints in it to matters that were not intended by the authors.⁵⁴ In both of these passages, R. Tzadok notes that the *Shulhan Arukh* is special in that it was accepted by the Jewish people, and this would seem to be an important point in how he views the matter. Thus, in discussing early *piyyutim*, he states that since they have been accepted in all of Israel, therefore it is important to understand their meaning. “Even if those who authored and arranged them did not have this [meaning] in mind, it can still be true.”⁵⁵ In support of this approach, he refers to R. Eybeschuetz’s notion, which he obviously sees as an important source, even though R. Eybeschuetz does not mention anything about a work being accepted in all Israel.⁵⁶

According to R. Naftali Zvi Judah Berlin, as quoted by R. Solomon Cohen of Vilna, R. Hayyim of Volozhin stated that we can offer explanations of the *Mishneh Torah* and the *Shulhan Arukh*, if they are in line with the halakhah, even if the authors of these works did not have these explanations in mind. The reason we can do so is because the authors were possessed with *ruah ha-kodesh*, which means that even if they did not intend something with their words, the words themselves are Torah and as such can contain “true” meanings that even the author was unaware of. Here is what R. Cohen states in a letter to R. Hayyim Berlin⁵⁷:

ואפשר דאף דהתוס' בעצמם לא כווננו לזה, מ"מ רוח הקודש נזרק על לשונם שלא יכתבו נגד הרמז והסוד שכל רבינו בחיי. וכן שמעתי מפי אביו הצדיק זצ"ל שאמר בשם חמיו זקנו הצדיק מו"ה חיים מוולאזין זצ"ל שיש לומר פירוש בלשון הרמב"ם והשו"ע אם הוא עולה ע"פ ההלכה, אף שבודאי לא כווננו לזה משום שרוח הקודש נזקרה על לשונם.

R. Yerucham Yehudah Leib Perlman follows the same approach we have seen so far.⁵⁸ He refers to a case where R. Joseph Karo is stringent even though the sources at his disposal should have led to a lenient ruling. R. Perlman notes that unknown to R. Karo, R. Sherira Gaon and R. Hai Gaon were strict. Even though R. Karo did not know about these sources

⁵³ *Maḥshevot Harut* (Har Bracha, 2006), 3:1, pp. 5–6.

⁵⁴ *Ibid.*, 15:7, p. 121.

⁵⁵ *Peri Tzadik* (Lublin, 1902), vol. 2, p. 59a (*parashat Shekalim*, no. 5).

⁵⁶ See Yaakov Elman, “Progressive *Derash* and Retrospective *Peshat*: Nonhalakhic Considerations in Talmud Torah,” in Shalom Carmy, ed., *Modern Scholarship in the Study of Torah* (Northvale, NJ, 1996), p. 244 n. 56.

⁵⁷ *Nishmat Hayyim* (Jerusalem, 2008), *Orah Hayyim*, no. 191.

⁵⁸ *Or Gadol* (Jerusalem, 1987), no. 27 (p. 97a).

and “should have” ruled leniently, nevertheless, his *ruah ha-kodesh* pointed him in a different direction:

אף שהב"י לא כיון לזה ולא ידע מהפוסקים האוסרים מדלא הביאום בספרו הב"י
עכ"ז רוח ד' נוססה אצל הרב המשביר לכל בית ישראל [וכמ"ש התומים בקיצור
תקפו כהן (אות קכד)] לכיון להלכה אף שלא כיון לזה.

The notion that we can point to “truth” in a work even when the author did not intend this “truth” is also mentioned by R. Jacob Emden. He points out that in R. Jacob ben Asher’s *Arba‘ab Turim* the section that deals with the laws of a shofar is *Orah Hayyim* no. 586. It so happens that 586 is also the *gematria* of שופר. R. Emden mentions that while this was not intended by R. Jacob ben Asher, nevertheless, it is a sign from Heaven that the book was written with the proper intention, “and all who are engaged in the work of Heaven for its own sake are shown a good sign, that which they did not intend.”⁵⁹

The same idea is expressed by R. Aryeh Leib Zuenz in explaining the Passover hymn *Had Gadya*. He notes that many explanations have been given to *Had Gadya*, and even if the author did not intend these explanations, they are still of value in and of themselves.⁶⁰ R. Joseph Saul Nathanson offers the same suggestion about passages in R. Isaac Luria’s teachings.⁶¹ R. Hayyim Hezekiah Medini explains a text of the *Peri Megadim* even though he realizes that his explanation is not in line with authorial intent. He defends his reading by citing R. Eybeschuetz that it is appropriate to interpret the words of rabbinic sages even in a way they did not intend.⁶² R. Hayyim Elazar Shapira quotes R. Ezekiel Halberstam of Shineva (Sieniawa) that R. Moses Teitelbaum was upset because he was not sure that the explanations he offered of aggadic statements were in line with the authors’ intent. Yet in a dream it was revealed to him that if one offers a clear explanation, “even if it was not true originally, that is, this was not the intent of the person whose words are being explained, nevertheless, now in heaven it [the explanation] has become true.”⁶³

⁵⁹ *Amudei Shamayim* (Altona, 1747), vol. 2, p. 93a.

⁶⁰ *Haggadah shel Pesah Birkat ha-Shir* (Israel, 2003), p. 299. This source is noted by R. Yoel Yitzhak Stern in *Beit Vad le-Hakhamim* (Adar 5769), p. 420.

⁶¹ *Shoel u-Meshiv*, vol. 2, no. 157:

ובזה מיושבים כל דברי האר"י ז"ל להמעין שם ואם אולי לא כיון האר"י ז"ל אבל מ"מ
הדברים נכונים בסברא.

See also *Shoel u-Meshiv, Tinyana*, no. 67, s.v. שוב.

⁶² *Sedei Hemed*, vol. 11, p. 4b (*Pe'at ha-Sadeh, kelalim, ma'arekhet bet*, no. 4), s.v. אמנם.

⁶³ Shapira, *Divrei Torah*, vol. 6, no. 36.

Let me conclude with two stories whose message is similar to what we have seen so far. The first story is told by R. Moses Sofer with reference to his teacher, R. Pinhas Horowitz.⁶⁴ R. Horowitz was asked the following: A live chicken fell into a pot of boiling hot butter and died there. As there was not sixty times more butter than the chicken, R. Horowitz ruled that the butter could not even be sold to a non-Jew, and thus they poured it out. Yet people reminded R. Horowitz that the prohibition of chicken and milk is only rabbinic, and one can benefit from it. In other words, there was no reason to spill the butter out as it could be sold to a non-Jew. R. Horowitz responded that while it is true that one is permitted to benefit from a chicken-butter mixture, in this particular case it could not be sold to a non-Jew as before the chicken died it was absorbed into the butter, which means that the mixture now contained *ever min ha-hai* which is forbidden for non-Jews. R. Sofer states that R. Horowitz's original ruling was not on account of *ever min ha-hai*, but was indeed a mistake, as he had forgotten the law that one can benefit from chicken mixed with milk. However, since God watches over the righteous, He ensured that R. Horowitz would think of his explanation regarding *ever min ha-hai* and thus be spared embarrassment.⁶⁵

The other story is reported about R. Moses Sofer. One time R. Sofer offered his halakhic opinion and the questioner rejected it. R. Sofer was able to justify his position with difficulty. R. Sofer's son, R. Abraham Samuel, was surprised at his father's response, and commented that the questioner was correct. To this, R. Sofer replied that before he gave his halakhic answer he prayed to God that he give the proper response. R. Sofer was therefore certain that his answer was correct even as he acknowledged that his explanation of his ruling was not compelling. He added, however, that "one who can learn better than me" will be able to provide a better explanation.⁶⁶ This story is significant as R. Sofer acknowledged that the

⁶⁴ *She'elot u-Teshuvot Hatam Sofer, Yoreh Deah*, no. 94. R. Sofer does not mention R. Horowitz by name, referring instead to a "*gaon ehad*." However, R. Sofer's student, R. Elazar Horowitz, *Yad Elazar*, no. 125, reveals that the unnamed *gaon* was his own great-grandfather, R. Pinhas Horowitz, and this was the first question he was asked when he became the rabbi of Frankfurt.

⁶⁵ והיה נראה לעין דתחלת ההוראה לא היה מטעם אבר מה"ח, וכשגגה יצאה מלפני שליט, אך לא יאונה לצדיק כל און הזמין לו השי"ת תירוץ לשזביה מכיסופא.

⁶⁶ See R. Solomon Zalman Ehrenreich's approbation to R. Joseph Schwartz, *Zikaron le-Moshe* (Brooklyn, 1956), p. 10a. See also the similar statements mentioned in Kahana, "Ha-Hatam Sofer," p. 546.

truth of an answer need not be dependent on the author’s own explanation.

Before concluding, there are a couple of additional points to be made. The first is that what I have been discussing primarily relates to matters of talmudic and halakhic interpretation, and how important authorial intent is in this regard. It should be clear to all that matters of aggadah and homiletics (*derush*) are different genres, and despite what we earlier saw from R. Moses Teitelbaum and the Nazir, I do not think that many assume that an aggadic or homiletic explanation needs to be in line with authorial intent. Indeed, the midrashic interpretation is often set off against the *pesbat*, which is understood to be interested in authorial intent.⁶⁷ We might say that while the *pesbat* is understood to be the text’s *meaning*, the midrashic interpretation is a *reading* of the text.⁶⁸ And finally, in this essay I have not dealt with interpretation in the Talmud. By this I mean when the *amoraim* interpret the Mishnah, are they in search of authorial intent? Not surprisingly, both rabbinic sages and academic scholars have dealt with this matter, but that is the subject of another essay.⁶⁹ ❧

⁶⁷ See Mordechai Z. Cohen, *Three Approaches to Biblical Metaphor* (Leiden, 2008), pp. 324ff.

⁶⁸ See Josef Stern, “Philosophy or Exegesis: Some Critical Comments,” in Norman Golb, ed., *Judaean-Arabic Studies* 3 (Amsterdam, 1997), pp. 217ff.

⁶⁹ To give an example of a source that I would include in such an essay, R. Naftali Zvi Judah Berlin writes:

דרך הגמרא לעקם פ' המשנה כדי לאוקמא על הפסק.

See *Ha'amek She'elab* 128:1 (p. 63a). See also R. Shlomo Fisher, *Derashot Beit Yishai* (Jerusalem, 2004), p. 130:

ובזה תבין ענין הדוחקים והאוקימתות שעושים האמוראים כשמקשים עליהם מדברי התנאים, שרבים תמהו ע"ז. דהואיל והאמוראים יודעים שהאמת עמהם ורק האיסור לחלוק הוא העומד בפניהם, לכן דוחקים בלשון התנאים להתאים דבריהם עם האמת.