**Rationality and Halacha: The Halacha L’Moshe MiSinai of Treifos**

By: ASHER BENZION BUCHMAN

**Rashba’s and Rivash’s Rejection of Science**

In his article justifying the ban on the works of Rabbi Nosson Slifkin, Rabbi Aharon Feldman\(^1\) enlists the aid of two of our most influential Rishonim, Rashba and Rivash. He tells us that both of them insist that “it is forbidden to say that the Sages erred in matters of science.” Indeed, in the *teshuvah* quoted, Rivash is quite explicit on this point with regard to *hilchos treifos*.\(^2\) If we accept what the doctors say, we will have overturned the laws of *treifos* which are a *halacha l’Moshe misinai*, and in fact we will be saying “that the Torah is not from the Heavens.” Rashba\(^3\) also insists that the doctors are absolutely unreliable with regard to their evaluations of *treifos*. One must totally ignore what they say, for the laws governing when we say an animal is

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1. Rabbi Feldman is the Rosh Yeshiva of Yeshivas Ner Yisroel in Baltimore, MD. His essay on the Slifkin controversy, “The Slifkin Affair – Issues and Perspectives,” was distributed with his permission on the Internet.

2.“If a scholar is saying that a treifah is not a treifah, why should we trust the doctors who have overturned the halachos of treifos? It is forbidden to say that the Sages erred in matters of science.”

3. This *teshuvah* of Rashba is not quoted by Rabbi Feldman.

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destined to die from a wound are halacha l'Moshe misinai. To deny these facts is to deny our mesorah from Sinai.⁴

Rivash goes on to argue, that since we cannot possibly accept what the doctors say with regard to the halacha l'Moshe misinai of treifos, we should not accept their testimony with regard to anything they say that contradicts Chazal, even if it is not something that was received, but something that the Rabbis deduced (ibid.)⁵ Rivash goes further than this as well. In the question addressed to Rivash, the questioner suggests that when Chazal say that an infant is considered kolu lo chadashav (having come to full term) after nine months, they do not require nine full months but rather part of the 9th month is sufficient.⁶ He suggests this position since the doctors of his time testify that babies will generally live if born any time within the 9th month. Although this is a viable explanation of Chazal’s intent, the Rivash rejects it since he feels the simpler reading is to require nine full months. He will not factor into his evaluation of the Gemara’s intent the evidence presented by the doctors, even though, in so doing, Chazal’s words would then be consistent with the doctors’ claims.

The Rashba quoted by Rabbi Feldman goes even further than Rivash in his rejection of science. Rashba rejects a position taken by Ra’ah [verify] and Ramban, that they felt compelled to take because the traditional explanation ran contrary to the observable facts of nature with regard to whether meat is polet (expels liquid) under a certain condition⁷. These other Rishonim refuse to accept the simple reading of the gemara since it runs against not just scientific claims but

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⁴ See note 11 where Rivash explains that Chazal’s experimentation was superior to that of the scientists.

⁵ י”עalm 사업ותעה"ו א”צ ה”א אמר ראה פרשת שנים מ”ל ל…” אמר במספר החכמים
⁶ י”עalm מ”ר עולם רבמ"ש ו”פ ל…” א”ל ל…” ולא מ”ל ל…” אמר במספר החכמים
⁷ י”עalm מ”ר עולם רבמ"ש ו”פ ל…” א”ל ל…” ולא מ”ל ל…” אמר במספר החכמים
The Rashba argues that our observations run contrary to many laws of bliah (absorption) with regard to hilchos ta'aruvos (laws governing prohibited substances that have become intermixed with permissible food). He contends that we must merely accept that Chazal were more expert than we are in matters of the laws of science. This attitude is born of what was noted in an earlier Ha'akirah article. There it was demonstrated that Rashba decides against the rationality of Rambam—in Rambam’s rejection of the power of segula to effect physical phenomenon and his claim that scientific rules govern all physical events—by arguing that the magnet proves that nature is subject to the mystical rules of segula as well, for “no one will ever be able to explain this phenomenon in a rational way.”

The attitude that Rashba expressed in matters of hashkafa permeates his thought and influences his psak not only in issues such as the definition of avodah zarah, but in the mundane laws of kashruth.

Rivash justifies his assault on the evidence presented by doctors and scientists of his day by noting that they did not use repeated controlled experiments to come to their conclusions but merely made claims based on superficial examination. Rivash also speaks of their unreliability in testing animals for treifos, saying that they cannot be trusted to have observed the same animal for the entire 12-month period needed to establish non-treifus and are likely to have miscounted or switched animals. In his own day, Ramban
maintained that “we must not deny the evidence of our own eyes,” 13 but a generation later the greatest students of his school were doing just that. Nevertheless, we can understand why they did so. Science was so primitive, medicine so ineffective, and so little was understood—that even the most brilliant and educated of men could believe that science had absolutely no reliability. Indeed, “scientific” claims were not the result of rigorous scientific examination and one could be justified in discounting them if they ran against what seems to be Chazal’s intent. However, seven hundred years later it would be incorrect to make these same claims, and thus it is inappropriate for Rav Feldman to look to these Rishonim to validate his anti-science arguments.

**Hilchos Treifos and Rav Moshe Feinstein’s Acceptance of Scientific Fact**

Seven hundred years later, the poskim of the previous generation had no intention of accepting this attitude of Rashba and Rivash. When confronted with a contradiction between what medicine tells us about wounded and sick animals and the treifos that Chazal have handed down to us, the Chazon Ish 14 and Rav Moshe Feinstein zt”l 15 never considered the possibility that the doctors were wrong. Rav Moshe notes the position of Rashba and explicitly explains that his attitude is incorrect. He tells us that in the days of Rashba, long-distance communication between areas was so limited that Rashba was unaware of what had been proven elsewhere and thus was skeptical when told that certain wounds could be cured. 16 According to Rav Moshe, Rashba is just wrong and today in gan eden he admits

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13 See at length U-Madua Lo Yeresem cited above, note 8. We demonstrated in that article that Ramban himself was primarily a rationalist.

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it. Although the present-day Talmudic student is trained to believe that a Rishon can never be considered wrong and our task is merely to explain the differing opinions, this is not Rav Moshe’s opinion. In this area, where a Rishon has predicated his position upon the stance that observable fact must be denied, the position of that Rishon must be rejected. It would be illogical to disagree with Rav Moshe, and the ramifications of this fact will be discussed in a future article.

Rav Moshe and the Chazon Ish take an almost identical approach in explaining the discrepancy between scientific finding and Talmudic conclusions. Tosfos (Moed Koton 11a s.v. kavrai) had blazed the way for them by claiming, in several places where observable fact seems to contradict rabbinic contentions, that חוץ הדברים המובנים, “nature has changed.” Chazal were right in their day but things have changed. Rav Moshe refers to two types of changes. 1) The hardiness of animals may have changed and while certain wounds used to kill they no longer do, and, in reverse, certain wounds that did not kill in Talmudic times, do kill today. 2) Doctors are able to cure that which could not be cured in previous generations. However, explains Rav Moshe, while the definition of treifa is assigned to that which cannot be cured, this definition is dependent on the time of Matan Torah when the halacha l’Moshe misinai of treifos was given. Although the fatal quality of the wounds listed in the Talmud is only valid in Talmudic...

17esan herpes א葉 שוי רכיע שיא שיא בם שיא ממה שיא ממה בלאו בקיאこれらの שיא רכיע שיא לולע ציא הלחם לולע האמה לולע אל שיא לולע

18 A Tannaitic case demonstrates the principle that a mistake in fact has no standing. Rav Tarfon (Sanhedrin 33a) ruled that an animal without a uterus was a treifa, and then was notified that before leaving Egypt the mares were stripped of their uteruses so they would not reproduce. His response was טרפון חמורך הלכה חזר, “there goes your donkey Tarfon,” that this error made him a בדד לעמה (mistaken in a matter already decided in the Mishnah) who had to compensate the person on whose animal he had ruled. In fact, there is a Mishnah (Chulin 54a) that specifies a missing uterus does not make an animal a treifa as Rashi (ibid.) notes, but the Mishnah was not compiled until later (see Maharatz Chiyus (ibid.)), thus the Shach (Choshen Mishpat 25:9:2) interprets that in Rav Tarfon's case, indisputable fact has the status of an undisputed Mishnah. He bases this on Rambam’s language (Hilchos Sanhedrin 6:1) "שא י cycles הגרות הגרות". The Rivash himself (Teshuvos HaRivash 498) seems to interpret the Gemara as the Shach does.
times, nevertheless the definition of *treifa* is dependent on those times. Rav Moshe has returned to the approach of Ramban (which seems to be that of Tosfos as well) that especially in the scientific age, "we must not deny the evidence of own eyes." He assumes, as is necessary for this explanation, that between the time of *Matan Torah* and the end of the Talmudic period there was no change in the hardiness of animals, nor in the ability to cure them. Rav Moshe does not explain why these laws should be dependent on this era, but the Chazon Ish, to some degree, does. He refers to the two thousand years of Torah that the *Gemara* speaks of and thus contends that the laws of the Torah are bound by this period. This limitation, as presented by the Chazon Ish seems at first glance, to be of a mystical rather than a rational bent. If a *treifa* is defined as an animal that is destined to die from its wound, why should this definition be dependent on the time of *Matan Torah* and not the age in which the animal is living?

**The Two Thousand Years of Torah and Rationalism**

It is possible, however, to see the *Zman Matan Torah* principle and the *treifos* solution of Rav Moshe and the Chazon Ish in a fully rational light. Another *halacha* that certainly goes back to the time of *Matan Torah* concerns the *melachos* of Shabbos. The 39 *melachos* are derived from that which was performed in the building of the *mishkan* (Bava Kama 2a). It is interesting, however, to note that neither the Mishnah (*Shabbos* 73a) nor the Rambam (*Hilchos Shabbos*, Chapters 7ff) emphasize this point and the order of presentation of the *melachos* in both works revolves around the process of producing food (*סדר*) (*הפה*), making clothing, and building. What is really accomplished by linking the *melachos* to the *mishkan*, is to relate the fundamental aspects

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19 See note 13.

20 In 2000-4000 in Creation, See *Hakirah* volume 3, “A Y2k Solution to the Chronology Problem.”

21 A Y2k Solution to the Chronology Problem.”

22 נמסר להכמים לקונים הורכבות ע"ש מהתיישנותолימ, הנה היה ירקו הקבץ באלפים הוה... ויהי ענייה הורכבות בפכי העשייה לח Redskins ... אתרר והнатים שבומנו לא היה מטליל בקימק האימונים (שמ).
of what constitutes “work” to the ancient era. Were modern man asked to define 39 fundamental acts of work, he would most certainly come up with a different list than that of the Mishnah. If man from the first two thousand years—before civilization had fully developed—were to come up with a list, it would also be different, and more primitive. The list in the Mishnah, taken from the intermediate part of civilization’s development, is conceptual and attuned to the fundamental principles of the acts of “creating” that the Torah considers appropriate for the מלאכה.

Similarly, Rambam in Moreh Nevuchim,23 states that some Biblical laws are based on prohibiting practices of אבודת זרה that existed at the time of מצת תורה, and were we to know more about the אבודת זרה of that time, we could understand these laws better. How strange that the eternal Torah be dependent upon practices that existed only in the ancient world! But this era of the Torah was also the age of אבודת זרה.24 The practices of this time reflect man's psychological longing for a means to connect to Divine power in order to attain a sense of personal security and “spiritual” fulfillment. The Torah’s laws are designed to combat those corruptive25 impulses that are part of the human psyche, and these are most clearly identified in the era of מצת תורה.

Bearing the above in mind, we can easily see how it would be reasonable to interpret that the טרפה would depend on what is fundamentally a critical wound. When medicine was entirely primitive, during the first two thousand years, perhaps even minor wounds would lead to death. In the present era even very critical wounds can be cured, and the Torah would still consider these wounds as טריפים, for until the animal is treated, the wound is considered fatal. The proper era in which to gauge what constitutes a fatal wound is the middle two thousand years of Torah. Essentially, Ramban presents at least part of this idea. The Talmud questions how it is possible to say that a cut in the הגדרת צמח (Chulin 76a) makes an animal a טריפה while the animal is kosher if the leg is cut off at a

23 See Sefer Hamitzvos Aseh 187 that the Canaanim are ikar aводת זרה.
24 Proper religious service comes from the desire to serve the Divine.
point even above these tendons? While the Talmud's answer is cryptic and seems incomplete, Ramban (Chidushei Haramban, ibid.) explains that the intent of the Talmud's answer is that even though the animal could be made kosher by operating and cutting off the whole leg, still, so long as this is not done the animal is a treifa. Yes, he notes, the Talmud tells us that if an animal can be cured it is not a treifa even before being cured, and the rule is that a treifa cannot return to a state of kashruth. Nevertheless, our case differs, for the animal's state is completely changed with amputation. In other words, when an animal can be saved by means of a radical operation, rather than by the administration of salves and herbs that constitute normal cures, then it is not considered to have been cured, but have entered into a new state. Ramban, would probably hold that all modern operations would not be included in the healing that prevents the treifa from applying.

**Rambam on Rabbinic Genius and Fallibility**

Rav Moshe contends that his explanation is the one given by Rambam, who being a man of science, was aware already in his own time that the *treifos* defined by Chazal were inaccurate. However, he is well aware that Rambam's language does not support his interpretation. Rambam writes as follows:

איני מ듯ים על טרופות אלא כלל. שלל שארת תבימה ואודין
וא生育 מمواد שוכן חזרות הרשון והבכורים עליהן
בכרי דומע ישאר אFirstResponder שתבימה. ואפלו נועדו לזכרים
הרופא שיאן סופס לוותר. וכפי אחר שואם אחרון שמע הרופא,
ואפיין רישאנה תביר תרופה שמידיקת אחר מOfString
ואפשר שמתהיך מתכ - אם של אカラー מה שומן חמסים שאמור
על פה התווח אSizer עזר (ה Bbw חשיט יי-כג)

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26. **תורפות קא הנפשת חידרש, לא אוטרוס ברפרות וודמה לוד שריש התחפה ומאה תחפה מפיו
27. **Dispose of דרב חילה בש: דיר מהרפה הפרפה או לוד חירה פנים.
28. **אמר נועם לשלח תJapgollyי חימה אלי "כנתענאלא נפלא מהרי יד מאלא התזבח
הเดียวกัน国际机场 שלם מסעバランスיה אלי וכסיפה".
29. **אמר רמ"ז שחלק חכמה גודל בוחר וגו היה רופא גודל בחירה עד שעשתה איה פי דיוד
מדריך רופאה בכל לא יעשה ולכולמ.
In order to read Rav Moshe’s explanation into Rambam he must change the *girsa* in *Mishneh Torah*. Rambam writes that the testimony of the Rabbis of old proves that an animal that they have called kosher (not labeled as a *Treifa* "can live." Rav Moshe says that the text should be changed to read (*Hilchos Shechita* 10:12-13) ""it would have lived,” i.e., in their times. There is no *girsa*, however, that supports Rav Moshe’s reading. A careful and exact reading of Rambam, in fact, leads to another explanation as to why the *treifos* listed by *Chazal* are not those that were recognized by the medical men of Rambam’s day. Rambam, according to all authoritative *girasos*, as Rav Moshe noticed (and the *Kesef Mishnah* (ibid.) did not) makes two different statements about the nature of the discrepancy. First, he explains, that if an animal is said by the doctors to be doomed, and *Chazal* do not consider it a *treifa*, then ""can live", it can live. Rambam, the rationalist, tells us that *Chazal* could cure this animal even if the doctors of his day could not. In fact, this is not irrational. Even today, doctors are looking at ancient cures and finding that some have efficacy. *Chazal* were entrusted with defining the laws of *treifos* and delved into the injuries, illnesses and cures of animals. Just because we can’t cure them, does not mean that they couldn’t. Rambam has confidence in the wisdom of *Chazal*. He sounds almost like Rashba and in fact the *Kesef Mishneh* interprets Rambam as being in agreement with Rashba.

But in the next halacha, as Rav Moshe notes, Rambam says that if the doctors can cure it, nevertheless...  

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30 Rav Moshe, however, changes the *girsa* in order to make the two statements consistent.

31 Rav Yosef Karo interprets Rambam to share the opinion of Rashba, in rejecting the claims of the doctors. Noting that this is Rambam’s argument in halacha 12, he assumes this is the case in halacha 13 as well. This is not a viable reading of Rambam, as Rav Moshe notes.

32 “We only have that which the Rabbis counted, for it says ‘According to the Torah which they will teach you.’” My thanks go to Jay Fenster who first pointed out to me that here Rambam is referring to Bais Din’s authority that cannot be overturned until another Sanhedrin has done so. Shortly before publication, I found that an online essay by Gil Student “Halakhic Responses to Scientific Developments,” quotes this reading of Rambam in the name of the *Sefer Yad Yehuda* (3:30). The essay which can be found at:
He does not deny that the doctors can cure what he himself sees is curable. He will not deny what is clearly true. Nevertheless, the שין טריפה (the identification of an animal as a treifa) is a function of the decisions of the Sanhedrin, and as Rambam explains (see bakdama to Mishneh Torah), the conclusions of the Talmud are final and cannot be overturned until the Sanhedrin is reestablished. In fact, the definition of treifa in our day is flawed, for this definition should be updated as the Rabbis learn more about veterinary medicine. Some of the defined treifos will live even without modern cures, and since Rambam never relies on (nature has changed), it is most probable that Chazal were mistaken in their original diagnoses. Chazal are not infallible as the principle of makes abundantly clear. Moreover, every Bais Din can overturn the decisions of a previous court on issues of interpretation of Torah law. This is so because court after court reexamines every nuance of the law, trying to find the absolute truth on an issue, and is not satisfied with the decisions of precedent (Mishneh Torah, Hilchos Mamrim 2:1). In the introduction to his Pirush Hamishnayos, Rambam explains that before the time of Hillel and Shammai, there were no disagreements on issues that arose, for the debaters would eventually all yield to a winning argument. Rambam feels that on all issues there is an objective truth and Chazal were engaged in a constant search for it - and at their peak they would find it. In modern days, with a modern Sanhedrin (Hilchos Sanhedrin 4:11), the laws of treifos would change based on the discoveries of

http://yasharbooks.com/Open/OpenAccess03.pdf categorizes these halakhic responses in a thorough manner.

33 שאמפר ליתחק ברשואתيع איה גי עלי רוזו. איה עלי רשואתlland והשניבים אולול לוית ימ בל לברשואת בהי ששראות ודועות בני העולמה נון (כדר למשש הש)

34 A sacrifice to be brought when the Sanhedrin has erred in a decision. See Vayikra 4:13

35 The Yated Neeman De'ah VeDibur, 2 Shevat 5765, reporting on the Slifkin ban, quotes Rabbi Elya Ber Wachtfogel as saying that Chazal are infallible and evidence to the contrary suggested by the halacha of רפואות בלא גם ואין ברפואות לחיות ויכלו הטבעים שנשתנו לאחר ואין כלו העולמה כל ויודעין שראוין כמו רפואות בלא גם (ר'כתב עשה

36 See Kapach edition, volume 1, pp. 11-12.

37 "פי שן ארמיטם שמה תורמים מבנה וגריעתו שלכלילם שלימדו מהו אלא התורה בהמה מחלוקת בהמה שלימדית או התורה בהמה בשמ פもり" ללין.
modern science and medicine. Perhaps, as Ramban feels, the cures brought about by surgery would not be included in the equation and the changes would not be that radical, but nevertheless, some changes would be made. But, until that day, the definitions of treifos of the last Sanhedrin will stand. For the perfection and rectification of the law we await the era of Moshiach—כבראשונהשופטינוכהרWebpackPlugin (“return our judges as in days of old.”)

**The Halacha L’Moshe Misinai of Treifos**

According to our explanation of the Rambam, he attributes the definitions of treifos to Sanhedrin, but are not these laws all halacha l’Moshe misinai? And if so, how can we claim that they were meant to change with the discoveries of science? In fact, the explicit argument of Rivash, and the implied argument of Rashba is based on the fact that treifos are halacha l’Moshe misinai and, as such, how can they be contradicted by any mortal authority? This seems to be the reason, as well, that Rav Moshe Feinstein chose to change the girsa of Rambam, rather than to interpret him along the lines we have explained. The answer to this question is found by examining the nature of the halacha l’Moshe misinai that was received with regard to treifos. The Rishonim have noted that the Talmudic account of this halacha is perplexing. Tanna D’vei Rabbi Yishmael speaks of eighteen treifos that are halacha l’Moshe misinai while Ula (Chulin 43a) has eight categories that comprise the halacha l’Moshe misinai. Rambam produces a list of seventy distinct treifos, (Hilchos Shechita 10:9) culled from Talmudic discussions and decisions. Rashba (Sheelot V’tshuvot Harashba 1:98) answers the contradiction by saying that the individual treifos are all halacha l’Moshe misinai and later authorities condensed the list of treifos by categorizing them. According to this approach, apparently one shared by Rivash as well, the contradiction in treifos is between science and our mesora misinai and therefore there seemed to be no choice but to deny science.

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38 Or, to do as Rav Moshe and the Chazon Ish do, and say the laws of treifos were based on the era of Matan Torah.
On the other hand, Rambam only refers to the halacha l'Moshe misinai that Ula spoke of: "Here and there, there are Halachot of Moshe, and there are Halachot of the Rabbis, and there are Halachot of the Rabbis. The simple understanding of Rambam's position is that only eight categories of treifos were handed down to Moshe. It was given to the Rabbis to determine exactly when these types of wounds were fatal and only then were they defined as treifos. Tanna Dvei Rabbi Yishmoel spoke of the expanded list of the eighteen treifos mentioned in the Mishnah as being the clear intent of the halacha l'Moshe misinai but they were compiled with the input of Chazal. The seventy treifos brought by Rambam are entirely the result of the analysis of the Rabbis of the Talmud, utilizing as a guideline the eight categories handed down from Sinai. Rav Yonasan Eibshitz notes that this must be Rambam's understanding, for in his introduction to the Perush Hamishnayos he tells us that on those issues on which there is a halacha l'Moshe misinai there is no disagreement between the Rabbis. The guardians of the mesora fully preserved that which was handed down from Sinai. The fact that there are many issues of dispute on the individual treifos makes it clear that the details of individual treifos are not part of the mesora.

According to Rambam, a general understanding of the medical principles involved in defining treifos is part of the mesora, but it was left to the chachomim to study animals and their health issues in order to define the treifos themselves, and in changing times, the definition

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40 עי' פלחי, ממט מלחים יום כל weekday שמים'
41 עי' יא דף קפח, ה'ספלתי
42 In general, the attitude of Rivash and Rashba is related to the belief that the mesora from Sinai was very detailed. The Rambam’s position, that all issues on which there is disagreement are not part of the mesorah from Sinai, makes quite clear his belief that the original mesorah was not that detailed and much was left to the Rabbis to decide. A careful reading of Ramban in the second shares of the Sefer Hamitzvos indicates that he is in agreement with Rambam in his belief that the bulk of the details of Torah law were deduced by the Rabbis and not part of the mesora from Sinai.
would change. Thus, in a technical sense, the nature of the halacha l'Moshe misinai is at the core of the disagreement between Rambam and Rashba. Moreover, Rashba's belief, shared with Ramban, that the higher sciences are of a mystical nature, led him to believe that the halacha l'Moshe misinai contained a detailed description of all wounds that are fatal. According to Rashba, the later disagreements amongst the Rabbis resulted from the loss of the deeper understanding of these sciences. Rambam, the rationalist, believed that Moshe Rabbanu was given only basic principles of medicine and a fuller understanding of these laws would evolve with time.

Rav Moshe Feinstein (ibid.) and the Maharam Shik before him, note that Rambam differs from other Rishonim on another issue related to treifos. Most Rishonim understand that a human being is subject to the same treifos that are defined for animals, although we are hard pressed to adjust for the differences in the anatomies of man and beast. Rambam, however, is clear that when it comes to declaring a human as being a treifa, it is solely the domain of doctors (Hilchos Rotzeach 2:8). Only in relation to the treifos of animals, where a definition of a Torah term is at stake, was the definition of the term put into the domain of Chazal. The בהמה טרפה שם (identification of the animal treifa) must be defined because one of the Torah's 613 mitzvos is based on this prohibition, thus it is the responsibility of the Sanhedrin to define it. In regard to אדם טרפות (human treifa), while its definition is relevant in determining if one is responsible for murdering a person with fatal symptoms (Sanhedrin 78a, Hilchos Rotzeach 2:8, Hilchos Edus 20:7), the treifa is not a Biblical term, and it was not expected that Chazal would be in charge of defining it.

43 Regarding this Rambam explainedCHASE כהדרוד.อ้อซชเรอ

44 Rav Moshe also feels this way. But the language of the Chazon Ish, cited above implies that the individual treifos were identified by Chazal, albeit with mach hakodesh.

45עי"ו"הackets"שחא"אץ"סינוחאהדערבמןטובר"טחשאאמתאתהאימתלוהטמול
מקבלרפסאולכלאולנתרפותשאמהוניב NotImplementedException ⁄ריינילוהטשאמהלותריה

46עי"ו"המקותז.ינ"זאםעם"ערשם"שוחיגב"קאםך"זהןבנבדותחריםש
בשוחתב"קכ:בשוחתב"קכ:

47עי תוספת התוספת שיתולהם: "ז"ז א经济技术ות בכורות: "ז"ז עדיהיות הנבונות בング

48עי'אגוצלפידיההולודותתוםמרפת(אמם)הכולቢיםליינימオンライン
It is only logical to assume that these laws should change along with medical advancement, and this is the way Rambam rules.

**Conclusion**

In the laws of τρείφος and elsewhere, indeed Rashba and Rivash rejected the apparent reality that they were faced with, assuming that Chazal were more reliable than facts established by science. But this attitude was only viable in a time when science was unreliable and rightly viewed with skepticism. The leading poskim of the last generation, Rav Moshe Feinstein and Chazon Ish, living in an era where no rational person would deny the truths of science, followed the lead of Ramban. They demanded that we accept the evidence of our own eyes and proceeded to reconcile the difficulties presented by modern observation by explaining that halacha was not meant to reflect scientific reality—and resolved apparent contradictions with arguments base on lomdus. Rav Moshe tells us explicitly that Rashba himself, living today, would no longer maintain his position. Still, both Ramban and Rashba shared a common belief that the knowledge of the physical world that Chazal had was superior to that of modern scientists. Ramban believed that Chazal’s understanding in this area was profound, for they were the masters of the superior “spiritual” sciences. Those following this school of thought believed that the original halacha l’Moshe misinai included the medical details of what constitutes a fatal wound that makes an animal a τρείφα. Both Rashba in his day and Rav Moshe Feinstein in our day worked with this idea. Nevertheless, Ramban himself did not consider Chazal infallible in these matters and was open to the possibility that they had erred in matters of science. He insisted that that we never deny the evidence of our own eyes.

Rambam’s approach was different from those that came after him, believing that: 1) halacha works in harmony with the rules of nature; 2) there is no such thing as superior “spiritual” sciences and the mesora from Sinai did not include any advanced knowledge of the natural sciences—the halacha l’Moshe misinai of τρείφα only gave basic

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50 See Vayikra 12:2, where he brings the opinion of the Greeks side by side with the opinion of Chazal, which they contradict.
medical guidelines; and 3) the process of Talmud Torah that Chazal were entrusted with, was the pursuit of truth. This quest is ongoing and in hilchos treifos the advances of science would enhance their understanding of Torah. In his attempt to discredit Rabbi Slifkin, Rabbi Feldman turns to the words of Rashba and Rivash— and maintains that “it is forbidden to say that the Sages erred in matters of science.” How unfortunate it is that many of the rabbinic authorities of our day have rejected the rationalism of Ramban. How sad it is that they have not embraced the principles of Rambam who viewed Talmud Torah as an ongoing pursuit of truth.

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51 Chazal believed in spontaneous generation. Does Rabbi Feldman believe that we cannot say they erred in this matter? He seems to go as far as these Rishonim (see opening paragraphs) in their belief that we should follow the simple readings of texts and disregard scientific evidence even if a plausible explanation can be advanced to reconcile the words of Chazal with science. He rebukes Rabbi Slifkin for trying to reconcile Torah with the theory of evolution. He would prefer to deny rather than reconcile. Rav Moshe tells us that Rashba could not travel widely to discover the truth. Had he been able to do so, he would have done it. Rav Feldman refuses to make that trip.