

## *“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.<sup>1</sup> 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-

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<sup>1</sup> Rabbi Aharon Feldman, “The Slifkin Affair—Issues and Perspectives,” available at <[www.zootorah.com/controversy](http://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.”