

Yaakov Elman

RABBI MOSES SAMUEL GLASNER: THE ORAL TORAH

Rabbi Moses Samuel Glasner (1856-1924), an only son of Rabbi Avraham Glasner and a great-grandson of the Hatam Sofer through his mother, Raizel (a daughter of the Hatam Sofer's oldest daughter Hindel), was born in Pressberg, and later moved with his family to Klausenburg, where his father served as rabbi. The younger Glasner succeeded his father as rabbi in 1878, serving in that capacity until his move to Jerusalem in 1923. In Jerusalem, he was involved in Mizrahi educational activities during the last year-and-a-half of his life.

Despite his lineage, in the main he led an embattled life in the sectarian politics of Hungarian Jewry, as he himself writes in the introduction to his bestknown work, *Dor Revi'i* (*hiddushim* on Hulin, Klausenburg, 1921). First of all, he was a leader and spokesman of Mizrahi who did not forbear from attacking its Orthodox opponents, as he did in his address before its founding convention in Pressburg in 1904. Second, his independent style of learning with its stress on Rishonim (understood on their own terms), opposition to *pilpul* and emphasis on the sovereignty of critical thought-way looked upon with disfavor.¹ He himself emphasizes that, aside from a few months spent with the Ketav Sofer, his primary and only teacher was his father.²

Aside from his *hiddushim* on Hulin, he published a collection of responsa, *Dor Revi'i, Shevivei Esh* on the Torah and sugyot, *Or ha-Bahir* on Hilkhhot Miqva'ot, *Halakhah le-Moshe* on *shehitah*, and more. Other works remain unpublished.

The following is a translation of parts of his Introduction to *Dor Revi'i* on Hulin, which sets forth Rabbi Glasner's view of the role of the Oral Torah within the history of Kelal Yisrael. His emphasis on the progressive development of Jewish law is similar in certain respects to aspects of the thought of R. Kook³ and R. Zadok ha-Kohen of Lublin,⁴ but Rabbi Glasner's schema is less overtly historical than that of the latter, and more halakhic and less mystical than that of the former.⁵

May the Creator of Light and Fashioner of Darkness be blessed and exalted for ever and ever, for the Lord made these [two coordinate forces]⁶ in order [for humans] to make a name for themselves [*lehitgadder*] by means of them,⁷ to distinguish and separate between Light and Darkness, between Truth and Falsehood. This is the [purpose] of man as long as he lives upon earth⁸-to pursue and seek that which is hidden, faroff and veiled from him; this desire is his function, and his function is the essence of his life. This is true of a man who is full of materialistic desires as well of as one who wishes to fill his soul with intellectual knowledge and spiritual pursuits. For the life of one who achieves his desire and has no other is no life, and his days are days in which he has no pleasure.⁹ For the essence of life, which vivifies all creation, is the intense desire for that which lies beyond him, which is difficult to attain; no

man dies accomplishing half of what he desires.¹⁰ . . . Perhaps this is that what Hazal meant when they interpreted the verse "God saw how good the light was and divided"¹¹--that He hid it away for the righteous in Messianic times, viz., that this light will always be hidden from the eyes of the righteous [in order that] they should seek to attain it.¹² In this they will find [their] life's pleasures and the merit of their existence, in raising themselves to a high [spiritual and intellectual] level, striving hungrily for higher and higher degrees of understanding in this world of action¹³ "which God created to do...."¹⁴

for all that is destined to be innovated in Torah was inherent *in potentia* [from the beginning] Even though the Torah was given complete [*hatumah*]²¹ and one is forbidden to add to it or subtract from it, and Hazal derived from "These are the As the *Iqqarim* interpreted "Generation after generation will praise Your works,"¹⁵ [viz.,] a person improves God's works by his innovations, wonders that his predecessors never imagined;¹⁶ regarding such things the expression "to do" is most appropriate For just as in natural science a person produces innovations with his intelligence and understanding based on old principles, so too with the science of our holy Torah. As Hazal say, "if you hear the old, you will hear the new."¹⁷ The intent is that one who incessantly occupies himself with the Torah that is with us of old and "kills himself over it"¹⁸ can derive totally new insights which were never [apprehended] before;¹⁹ it is in this sense that Hazal said that "the Holy One, blessed be He, showed Moses all that an experienced disciple would in future times innovate [in Torah],"²⁰ commandments "²² [the principle] that from that time [of the completion of the Torah as described in Deut. 31:24-26, even] a prophet may not innovate anything"²³--this refers only to adding to, or subtracting from it, but permission is given to every authorized court [of ordained sages] to interpret it and derive new laws. This too is similar to the Creation, for though no human has the ability to create *ex nihilo*, he [has the ability] by combining separate [already existent] forces and elements to provide a hidden internal combination. Creation and the Torah are similar in this; the only difference is that while Creation was given to all mankind to manipulate, the Torah was given only to the Chosen People, the Israelites; it is ours, to love and perfect, to mediate on it with self-sacrifice in order to attain the light in it that will reveal to us new lights which give content to our spiritual lives.

And these are the words of the Rambam: "[If] the Great Court derived [a law] by one of the hermeneutical principles according to what they deem correct, and after them a new court arose to reverse [that law], [that later court] may reverse the law and rule as they deem correct, as [Scripture] says: `to the judge that will be in those days'²⁴--you need only consult the court in your own time" (Hilkhos Mamrim 2:1). [Regarding this] we learnt in [Mishnah] Eduyot²⁵ that this Great Court must be greater in wisdom and number in order to reverse the decision of its predecessors--that applies only to the

matter of decrees and regulations, but not in the interpretation of Torah, as the Rambam explains in 2:2. Now, the Kesef Mishneh there asks how then, according to the Rambam, could the Talmud raise a difficulty against a statement of an Amora from a mishnah or baraita, to the point of reconciling the two by suggesting that [the Amoral held the view of one Tanna [and not the view of the one represented by the mishnah or baraita], or [how could the Talmud] otherwise leave it as a refutation [against the statement of the Amora]--- not answer that [the Amoral merely disagrees [with the other Tanna], since permission is given to later generations to disagree with earlier ones? He answers: "It is possible that from the time of the closing of the Mishnah later generations took upon themselves [the rule] not to dispute [the view of] earlier generations, and so too in the case of the closing of the Talmud, for from the day of its sealing no one has the right to dispute it[s decisions]." But we must note that if the Kesef Mishnah is correct, how is it that this great and awesome matter-a matter which is the founding principle of halakhic decision-making, viz., they took it upon themselves not to dispute the Mishnah, and later they took it upon themselves not to dispute a Talmudic source-is not mentioned in either the Babylonian or Palestinian Talmud; there is apparently no hint of this!

. . . Know that the clearest and most essential difference between the Written and Oral Torahs is that while the Written Torah was handed over to Moses word by word from "In the beginning" to "before the eyes of all Israel," the content of Oral Torah was given over but not the words. Regarding this Hazal have said that "all the prophets prophesied with the expression thus said the Lord,' but Moses [was greater than they in that] he added an expression-[he prophesied] with `thus' and `this is the word',"²⁶ viz., [all the other] prophets received only the content [of their prophecies from God], and this is "thus said God," but Moses prophesied with "thus" and "this is the word," i.e., the Written Torah with "this is the word" and the Oral Torah with "thus said God." [He handed over] the Written Torah word by word just as he received it, and the Oral Torah in his own words, according to the content. This is what Hazal meant: "No two prophets prophesy with the same signet [= exact wording],"²⁷ viz., the same exact prophecy, each one in his own style and language. Even if we accept the Malbim's view in his introduction to [his commentary on] Jeremiah, that all the words of the prophets are the word of God which He placed in their mouths word by word and the differences in style [among them] are by the will of God, it is clear that the Oral Torah was not given word by word, for exact wording must be transmitted in writing, as we all truly observe, for [only] the content of the traditions that date back to Moses (*halakhah le-Moshe mi-Sinai*) were handed down [and not their exact wording]. Our teacher Moses handed over to us what he understood of the tradition received at Sinai. Now any matter which is transmitted orally will be the very nature of [its transmission] be subject to change in interpretation [as it goes] from person to person, for everyone injects into it something of his own understanding For

this reason [Haza] invalidated the testimony of a witness at second remove, for the [latter] will not remember the words [he had heard] but [only] the[ir general] content, and pass it on to a third person according to his understanding and the testimony can easily become distorted . . . , for human sensibilities are never identical.

Thus, whoever has due regard for the truth will conclude that the reason the [proper] interpretation of the Torah was transmitted orally and forbidden to be written down²⁸ was *not* to make [the Torah] unchanging and not to tie the hands of the sages of every generation from interpreting Scripture according to their understanding. Only in this way can the eternity of Torah be understood [properly], for the changes in the generations and their opinions, situation and material and moral condition requires changes in their laws, decrees and improvements.²⁹ Rather, the truth is that this [issues from] the wonderful wisdom [and] profound insight of the Torah, [which teaches] that the interpretation of Torah [must be] given over to the sages of each generation in order that the Torah remain a living force with the nation, developing with it, and that indeed is its eternity. In this way may we understand correctly the wording of the blessing "Who gave us a Torah of truth and implanted in us eternal life," which the Tur interprets as follows: "a Torah of truth" refers to the Written Torah and "eternal life" refers to the Oral Torah (Orah Hayyim 138, see Shulhan Arukh thereto). This can well be understood in light of what we have said: Written Torah can be called "truth" because it is absolutely true. No additions or subtractions can be made to or from it, and thus it is transmitted in written form, and a Torah scroll which is missing one letter is invalid for use. The Oral Torah, its interpretation, however, is not called absolute truth, but rather conventional truth which depends on the "judge in your days" [i.e., based on the agreement of the sages].³⁰ For this very reason, though, it is called "eternal life implanted within us," for in it enters the living spirit of every generation of human endeavor, and thus it is called "eternal life."

In order to give authority to the sages of the Torah of every generation, and in order that the nation not be divided into different sects, the Torah commanded the *parashah* of a rebellious elder,³¹ and this is the explanation of the Hinnukh (mitzvah 496): "[It is written] `do not turn . . . right or left [from all that {the judges of your time} tell you]'³²--even if they are in error in one matter, it is not fitting for us to dispute them, but we must act according to their error. It is better to bear one error and remain under their authority than to have each one follow his own ideas, for in that lies the destruction of religion, the division of the nation and its complete annihilation."

The Rambam makes a similar point in his commentary on the Torah: "If it should occur to you that [the sages] are mistaken, and the matter is as simple to you as right and left, [nevertheless,] follow their instructions; do not say: How can I eat this forbidden fat? or: How can I murder this innocent man [who has been condemned to death by a properly constituted court]? Rather, say: So did the Lord Who commanded

the mitzvot command . . . and according to their opinion did He give the Torah, even if they err."³³

[The author of] *Midrash Shmuel*³⁴ on Ethics of the Fathers (chapter 1, s.v. "Make a fence for the Torah") makes the same point in this way: "And therefore [the Tanna] says that this Torah was handed over to Joshua³⁵ to do with it as he wished, making right left and left right *according to the time* and place [R. Glasner's emphasis]; in all this it is his, to do with as he wishes, and so too was it handed over to the Elders, etc.³⁶ *and this is one of the reasons that the Oral Torah was not written down but given to the Great Court to do with as it wished* [R. Glasner's emphasis]."

Thus you see clearly that although the Oral Torah was given over to Moses at Sinai, since it was not given word for word but only the contents [were given], and it was not permitted to be written down, this indicates that the will of the One Who commanded, may He be blessed, was *not* to make the interpretation of Torah unchanging, in order that there should not appear an open contradiction between life and the Torah. This is what the Talmud answers regarding the question-if there is substance to the Oral Torah, why was it not written down? The answer given is because of the verse "of making books there is no end,"³⁷ viz., it would then be necessary to write a new and different interpretation for every time, according to the needs of the time and place, and that is why the Oral Torah is called "new,"³⁸ for the Oral Torah is not absolute truth but rather conventional. Only that which the sages of the generation agree upon is true [in this sense]. *When they contradict that which was [accepted as true until then, their new interpretation becomes the true one [for their generation]; so have we been commanded by Him, may He be blessed, that we "should not depart from the thing (the sages of that generation) tell us either to the right or left"*³⁹ --even if they uproot that which was agreed upon until now. *This too is what they intended when they said "Both these and these are the word of the Living God"*⁴⁰

And this is the Rambam's intent that I quoted above. He is of the opinion that every court in its generation, though it is not greater than its predecessor, but inferior to it, has the right to disagree and interpret and expound Scripture according to its understanding and according to the principles agreed upon by the sages, handed down from Moses at Sinai . . . and even the court of Joshua was able to dispute the court of our teacher Moses in interpreting and expounding the Torah. However, while this opinion of the Rambam's is the essential law, in accordance with the verse "the judge that will be in those days," it is really a law for Messianic times (*hilkheta li-meshiha*). For [when] the Temple is rebuilt (speedily in our times!), and the "children return to their boundary,"⁴¹ and the crown is returned to its former condition in that the Oral Torah will be transmitted orally and it will be forbidden to write it down--then the sages of each generation will have the right to interpret the Torah [according to their

own understanding] without reference to the interpretations of their predecessors, for the Oral Torah will not have been written down in an "iron pen" to be unchanging. But from the time that Rabbenu Haqadosh and the sages of his generation uprooted the prohibition of writing down matters hitherto transmitted orally,⁴² it is obvious that it is forbidden to us to dispute what generations before us have set down in writing in order to remain authoritative for many days.⁴³ The intent of permitting the writing down of oral traditions was to prevent later generations from disputing the views of their predecessors. Only in this way may we understand the great controversy surrounding the permissibility of writing [oral traditions], to the point that [the sages of the Talmud] said that whoever writes down halakhot is as one who burns them (Temurah 14b). But they held that it is better to uproot [part of] the Torah⁴⁴ than the Torah be forgotten by Israel.

NOTES

1. "Know that after thousands of years of exile and wanderings have passed over us, [these persecutions] have killed our (capacity) for logical thinking and the power of critical thought, and has given birth to the way of *pilpul* which is far from the way of wisdom as the east is from the west" (Introduction to *Dor Revi'i*, p. 3c). Or: "If one man be found who wishes to remove the thorns and weed the [garden], he is adjudged a rebellious elder, and, God forbid, as one who cuts down the shoots" [= a heretic]. In this way the land is filled with hypocritical flattery in which [each one] suppresses [his sincere] opinions because of the power of those who are willing to use force and intimidation against whoever opposes them" (ibid., p. 4a).

2. Most of the information in this sketch is taken from the author's own comments at the end of the Introduction. Note that Rabbi Leo Jung devoted a chapter to Rabbi Glasner in his *Men of Spirit*, New York, 1964, pp. 459-466. There is also an entry on him in the *Entsyklopedya shel haZiyyonut ha-Datit*, Jerusalem, 1951, vol. 1, pp. 523-527.

3. See Ma'amarei ha-Re'i'ah: Qovetz Maamarim, Jerusalem, 1983/4, pp. 1-9 and pp. 113-115, and Orot, Jerusalem, 1981/2, pp. 102-118 and pp. 120-121. My thanks to Yehudah Galinsky for these references, and for a highly enjoyable discussion regarding Rav Kook and R. Zadok.

4. See the writer's "R. Zadok Hakohen on the History of Halakha," *Tradition* 21/4 (1985), pp. 1-26, and "Reb Zadok Hakohen of Lublin on Prophecy in the Halakhic Process," in *Jewish Law Association Studies: The Touro Conference Volume*, Chico, CA, 1985, pp. 1-16.

5. Rabbi Glasner is reticent about the sources of his view of the development of Jewish law, and the extent of the influence of Rav Kook or R. Zadok's thoughts cannot as yet be gauged. R. Zadok's *Resisei Laylah* (Lublin, 1902/3) which contains much of his historiography, was available for nearly two decades before publication of *Dor Revi'i*. As to Rav Kook, the earliest known correspondence between them dates from Rabbi Glasner's arrival in Jerusalem in 1922, the year after publication of *Dor Revi'i*, and does not touch on these issues (see *Iggerot ha-Re'iyah IV* Jerusalem, 1983/4, pp. 132, n. 1139 (dated 6 Av 56820; nor does a letter of condolence addressed

to his son Rabbi Akiba Glasner, who succeeded him in Klausenburg, pp. 215-216 n. 1275 (10 Tevet (5685)). My thanks to Rabbi Matis Greenblatt for directing my attention to these letters.

6. *zeh le'umat zeh* (Eccl. 7:14), a common Hasidic phrase referring to opposing forces which undergo parallel development; see the writer's "R. Zadok on History," pp. 18-19.

7. Or: to define himself by them.

8. A pastiche of Eccl. 12:13 and I Samuel 20:32.

9. Echoing Fecl. 12:1.

10. Eccl. R. 1:34.

11. Gen. 1:-1.

12. Hag 12a.

13. *Asiyah*, a kabbalistic term denoting the lowest world of emanation, in which human action operates.

14. Gen. 2: 3. "To do" here seems superfluous, and accordingly is interpreted as referring to human action, for which Creation is the backdrop. The author goes on to discuss Ibn Ezra's interpretation of this verse. and those of other commentators.

15. Ps. 145:4. Albo discusses this verse in his *'Iqqarim* 2:27, but does not use it in the slay cited. Whatever its origin, it seems to stem from a play on *yeshabbah-yashbi'ah*.

16. Deut. 32:17.

17. bBer 40a.

18. Ber 43b.

19. See the writer's "R. Zadok on History," pp. 8-9.

20. yPeah 2:6 (17a). ed. Vilna 2:1.

21. bGit 60a.

22. Lev. 27:34.

23. Shabbat 104a.

24. Deut. 17:9.

25. 1.5.

26. Sifre Numbers, beginning of Matot.

27. bSanh 89a.

28. Git 60b: the author discusses this matter supra, p. 1c-d. That discussion is not included in this translation.

29. Here follows a sharp attack on R. Yaakov Zevi Mecklenberg for explaining the departure of Hazal from the plain meaning of various verses as a test of our faith, as he does in his commentary on Humash, *Haketav Vehakabbalah*.

30. See J. Klatzkin, *Thesaurus of Medieval Hebrew Philosophical Terminology*, N.Y., 1968. vol. 1, pp. 185-86, s.v. *heskemi*.

31. Deut. 17:8-13.

32. Deut. 17:11.

33. *Perush ha-Torah ad loc.*

34. R. Samuel b. Isaac Uceda, sixteenth- and early seventeenth-century talmudist, preacher and disciple of the Ari and R. Hayyim Vital, best known for his commentary on Avot.

35. A reference to Avot 1:1.

36. Another reference to the opening mishnah.

37. Eccl. 12:12.

38. bBer 40a.

39. Deut. 17:11.

40. bErub 13b.

41. Jer. 31:17.

42. That is, when the Mishnah was composed.

43. Jer. 32:14.

44. That is. they permitted the reduction of halakhot to writing in order to preserve them.