

hic expositions that are far from the plain meaning of the text while claiming all along that the Samaritans and the Sadducees considered obligatory only those laws that were written explicitly in the Torah. Laws that are not written explicitly in the Torah, that are obtained through interpretation, are not obligatory (see, for example, *b. Sanh.* 32b). Yet the rabbis assumed that the Samaritans (and the Sadducees) observed certain laws that to our understanding are not written in the Torah at all (see, for example, *b. Hor.* 4a). Often in the recorded debates in the Talmud between the Pharisees and the Sadducees, expositions are exchanged between the two groups that bear little resemblance to the written text (see, for example, *b. Menach.* 65a–66a).⁵³ An interesting example in this regard can be quoted from Rashi's commentary on Lev. 16:2. The verse states: "for I appear in the cloud upon the ark cover"; upon which Rashi comments: "For I [God] always appear there (in the Holy of Holies) in the cloud . . . make sure that you (the high priest) do not frequent there. This is the peshat. But our teachers have expounded it to mean the cloud of the incense burned on Yom Kippur" (see verse 13). The interpretation which Rashi calls *derash* in contrast to *peshat*, that the phrase refers to the incense burned on Yom Kippur, is also the interpretation of the Sadducees.⁵⁴ Apparently, the rabbis of the Talmud did not consider this interpretation *derash*. But it was *derash* to Rashi, living as he did in a different period with its own sense of *peshat*.

The Meaning of "Beferush" in Amoraic Literature

Let me also note that several times in the Talmud an *amora* uses the word *beferush*, which generally means "explicit" (often in contrast to *mihlalla*; "through deduction") or "expressly" in connection with an exposition that to our taste is far from being explicit or expressly stated. *B. Ketub.* 32b is a good example: "R. Elai said: the Torah has expressly stated that the *zommimim* [false witnesses] have to pay money." The anonymous *stam* inquires:

Where has the Torah stated thus? Consider it is written [Deut. 19:19] "You shall do to him what he has done to his brother." Why is it written further "hand for hand"? that means a thing that is given from hand to hand, and that is money. And the same appears to be the case of a person who injures another person. It is written [Lev.

24:19], "As he has done, so shall be done to him." Why is it written further "so shall it be rendered to him"? That means a thing that can be rendered, and that is money."

None of these expositions appears to us to be "expressly" stated in the Torah. But they did appear so to the rabbis of the Talmud. Similarly, *b. B. Kam.* 78a states: "If with respect to sacrifices, is it not explicitly (*be hadya*) stated: 'A bullock or a sheep' (Lev. 22: 27) which excepts a hybrid?" To us, the phrase "a bullock or a sheep" does not explicitly except a hybrid. The difference between the rabbis of the Talmud and us is not only that they were more receptive to applied meaning but also that their notion of what constitutes applied meaning seems to be narrower than ours. That, too, is part of their particular exegetical state of mind.

The Medieval Period

Shemuel ben Chofni: Peshat Alone

The picture during the Middle Ages was quite different. The interpretive state of mind of medieval rabbis embodied a belief in the superiority of *peshat* over *derash*, which around the tenth century was projected back into the talmudic period. The impetus came from the Arabs.⁵⁵ Some of the rabbinic terminology of the period distinguishing *peshat* from *derash* (and extolling the former) was taken from the Arabs. But the receptivity was their own. They were ready for that awareness by virtue of their state of mind. Their interpretive state of mind was such that interference with the substantive meaning of a text was less and less tolerated. They accordingly responded to their environment and chose among the ideas extant those that were in sympathy with their inclination. In an earlier period the choice would have been different.

The first rabbi to ascertain the superiority of *peshat* over *derash* was R. Saadya Gaon (882–942), who says in several places, most notably in his magnum opus, the *Book of Beliefs and Opinions*, at the beginning of chapter seven, that "everything that is found in the Bible has to be understood according to *peshat* except when the *peshat* is against the senses, or against reason, or if it contradicts

another verse in the Bible, or if it opposes tradition." In the exceptional cases, one has to interpret the text according to *derash*. R. Saadya does not explicitly state, though he tacitly assumes, that the rabbis of the Talmud shared his conviction. He has not yet connected the inviolability of *peshat* (except for the cases mentioned above) with the dictum in the Talmud (profusely quoted later on) "No text can be deprived of its *peshat*." That was left for a much younger contemporary of his (who was also the head of the academy in Sura, Babylon), R. Shemuel ben Chofni (d. 1013).⁵⁶ R. Shemuel ben Chofni was the first one, according to the extant literature, to interpret the word *peshuto* in the celebrated dictum to mean simple or plain meaning and to make the dictum imply the invincibility of *peshat*. R. Shemuel's interpretation spread rapidly throughout the Jewish world. In less than a few decades after R. Shemuel's death, a younger contemporary of his, in Spain, R. J. ibn Ganach (died c. 1040)⁵⁷ quoted the dictum already. R. Tuvia the son of Eliezer, the author of *Lekach Tov*, who lived in Bulgaria around 1100, quoted it.⁵⁸ Both Rashi (d. 1105 in France)⁵⁹ and R. A. Ibn Ezra (who was born in Spain and died somewhere else in 1164)⁶⁰ quote it a few times. And it has since been repeated numerous times until challenged by modern scholars.⁶¹ There is, however, an interesting difference between R. Shemuel ben Chofni and the others with regard to the full significance of the dictum of the Talmud, which R. Shemuel connected with plain meaning. R. Shemuel, who took the idea of the invincibility of *peshat* from R. Saadya and who in turn most likely took it from the Arabs,⁶² both sources of which give, if not an overwhelming endorsement of *peshat* (with exceptions), at least a very strong preference for *peshat* over *derash*, understood the dictum in the Talmud, as did Maimonides in his *Book of Commandments*, root 2, to mean that no text can be deprived of being interpreted exclusively according to *peshat*. The *derash* has to be rejected. In contrast, R. J. ibn Ganach, Rashi, Ibn Ezra, and others understood the talmudic statement to mean that *peshat* and *derash* coexist. The *derash* is not to be rejected. Paradoxically, R. Shemuel's interpretation of the talmudic dictum, even if one grants that *peshat* there means plain meaning, is in itself against the *peshat* of the dictum. The plain meaning of the dictum, as already argued by the Ramban in his criticism of Maimonides' *Book of Commandments*, is not that the *peshat* is the only

correct meaning, for then the dictum should have read "A text has only its *peshat*." By saying "A text cannot be deprived of its *peshat*," the rule implies that the *derash* remains but is never exclusive. It always shares the text with *peshat*, while the *peshat* may or may not be exclusive (depending on whether or not there is a *bona fide derash*). Such was R. Shemuel's reliance on Arabic sources (and that of Maimonides afterwards) that he refracted the dictum in the Talmud in a way that would make it comply with what he derived from these sources. The claim was made there that in general *peshat* ought to be the exclusive meaning of a text, and the dictum in the Talmud was made to fit that claim. Ibn Ganach and the others had no such reliance and, guided by the words of the dictum, understood them to mean that a *bona fide derash* has a legitimate claim, so that while a text can never be deprived of its *peshat*, neither can the *peshat* deprive the text of its legitimate *derash*. There is room for *derash* alongside of *peshat*.⁶³

Rashbam and Ibn Ezra: Balancing Peshat and Derash

How did the rabbis of the Middle Ages, those who were committed to *peshat*, cope with the historic problem that the rabbis of the Talmud did not always adhere to *peshat*, that many a *derasha* in the Talmud (including *derashot* on which laws, demanding compliance, are based) are offensive to *peshat*? I have already mentioned that the two greatest advocates of *peshat* in the Middle Ages, the Rashbam (d. 1160)⁶⁴ and Ibn Ezra, did not offer a common solution.⁶⁵ Ibn Ezra considered the offensive expositions as *Asmakhtot*, the biblical text serving only as a mnemonic device to ease recall or to tint the content with biblical authority, not as a source of the law. The source of the law is either a rabbinic ordinance or a tradition. Ibn Ezra had to concede in those instances where the exposition negates the content of the plain meaning, when the two meanings are mutually exclusive, that the *derash* is the true meaning of the text. The rabbis, says Ibn Ezra, would not have based a law on a text against its *peshat*. In those few instances where it appears to us that they did, we have to have confidence in them that they knew better what constitutes *peshat*.⁶⁶ Being primarily a philologist, he had little use for seeming redundancies that could easily be attrib-

uted to stylistic peculiarities. One cannot escape the impression that Ibn Ezra wrestled mightily with the problem of peshat and derash, yet did not fully overcome the tension generated by that problem. The Rashbam, however, was not willing to concede that derash is the meaning of the text, even in those instances where the exposition, followed by practical halakhah, negates the content of the simple meaning. In his commentary on the Torah, he always follows what he considers to be peshat, but makes room for the halakha through the many seeming redundancies one encounters in the biblical text. In his commentary he makes no mention of *Asmakhtot*. Peshat and derash are two distinct levels of interpretation. You follow the peshat when you are interpreting the meaning of the text, and you deduce the *derasha* from "redundancy of the verses, or from peculiarities of language in which the plain meaning is written. It is written in such a way that we can learn from it the binding nature of the *derasha*."⁶⁷ When peshat and derash contradict, one teaches the peshat but behaves according to derash. It is as if the purpose of the redundancy is to tell the Jew how to behave, what interpretation to follow in matters of practical halakha. In this sense, derash is more important. The Rashbam calls derash *ikar*, more essential than peshat. When the two are incompatible, one lives by derash. One gets the impression from the two places (on Gen. 1:1; 37:1) where the Rashbam quotes the dictum *ein mikra yoize middei peshuto* that he understood it to mean—and he is not alone in this— "No text should be deprived of being interpreted according to peshat." Even when the peshat is not followed practically, one still has to study the text according to peshat. The theoretical value of peshat ought never to be ignored. This is not the sense in which the dictum is quoted by Ibn Ezra (and by the Rambam and others for that matter). To them the dictum indicates equality of peshat and derash, which they found difficult to reconcile with the prevalent halakha. Perhaps because of this understanding, despite his enormous halakhic expertise on the one hand and his critical acumen on the other, the Rashbam, unlike Ibn Ezra, does not display tension when dealing with the problem of peshat and derash. To him, the dictum did not generate halakhic problems. It was intended only for exegetical purposes.

Maimonides and Divrei Sofrim: Safeguarding Peshat

What I have said about the difference between the Rashbam and Ibn Ezra is known. I repeated it mainly to contrast their positions with that of Maimonides, which has escaped scholarly notice, probably because what he had to say on the matter was not explicitly stated but rather needs to be inferred from the way he occasionally changes or modifies the *derasha* of the Talmud. It is my contention that Maimonides was even less accepting of derash than was the Rashbam or Ibn Ezra. He was not ready to readmit the derash via redundancy as the Rashbam did nor was he willing to concede to the rabbis of the Talmud a better grasp of what constitutes peshat, as Ibn Ezra did.

His position can be summarized as follows. Whenever there is no contradiction between the plain meaning and the exposition, and the former does not support the latter, Maimonides attributes the exposition to a source outside of the text, what he called "according to tradition"—*Mipi kabbala* or *Mipi hashmu'a*⁶⁸ (akin to Ibn Ezra's *asmakhta*). He in fact created a new concept, *divrei soferim* to account for a number of *derashot* in the Talmud. What exactly the concept is, is not clear. In terms of its binding nature, it is less binding than a biblical law but more binding than a rabbinic ordinance. It is neither biblical nor rabbinic. This concept of Maimonides has been the subject of many comments since. Indeed, a whole book has been written containing primarily the summary of the comments, Jacob Neubauer's insightful study *Ha-Rambam al Divrei Sofrim*.⁶⁹ Yet the concept remains elusive. Whatever the concept is, it is an attempt to avoid grounding some expositions in the text. To Maimonides, the text doesn't always support the exposition.⁷⁰ The exposition derives its "sustenance" as it were from elsewhere. In this, Maimonides is not alone. Other scholars during the Middle Ages shared this view. What is unique to Maimonides is that sometimes when there is a contradiction between the exposition and the plain meaning—a decided minority of cases—he will change the nature of the exposition of the Talmud or subtly modify it in a manner that will reduce the flagrancy with which it is superimposed on the text. I will cite three examples:

1. I already quoted Rava's statement in *b. Yevam. 24a* that Deut.

25:6 in connection with levirate marriage was deprived of its peshat. The peshat of the verse says "the first born that she bears shall succeed in the name of his brother that is dead." The first child of the levirate union shall succeed in the name of his uncle. In contrast, the rabbis interpreted the verse to mean not the firstborn that *will be born* but the first born *that was already born*, the deceased's eldest brother "shall succeed in the name of his brother that is dead." Maimonides ignores Rava's acknowledgement that this is an instance where the text is deprived of its peshat and instead says (in *Mishnah Torah*, "Laws of Levirate Marriage" and *Chalitzah* 2.6):

Mipi hashmua (from tradition) we know that the reference is to the oldest brother, that he should marry his brother's widow. As to the words *asher teled*, that she bears, the verb should not be taken in the future tense (that the widow will bear) but in the past tense (what the mother of the deceased bore already). The oldest that the mother bore shall succeed in the name of his brother."

In his commentary on *m. Yevam*. 2:8, Maimonides adds that "the Hebrew language uses sometimes the future tense in the sense of the past." Maimonides' exposition of the verse is against Rava's statement. The author of the book *Tosafot Yom Tov* and others tried hard to reconcile Maimonides' interpretation with the Talmud. Clearly Maimonides could not tolerate deprivation of the peshat even when done rarely. He changed the derash so that it would not imply such a deprivation. He deviated from the Talmud;⁷¹ he had no other choice. His exegetical conscience did not allow him to violate the peshat so grossly.⁷²

2. I already mentioned that according to the sages who disagreed with R. Yose ben Kipper in *b. Yevam*. 11b and parallels, the phrase in Deut. 24:4 "after that she is defiled" does not refer to the subject of the passage, that of remarrying a former husband, but to a *sota*, a woman who secluded herself with a man. The Gemara explicitly calls this interpretation a deprivation of peshat, a deprivation of context. In contrast, Maimonides ("Laws of Divorce" 11.12) quotes the view of the sages but subtly modifies their exposition. They are not saying that the verse "after that she is defiled" does not belong where it is written; that would be, for Maimonides, an unallowable supposition. Rather, they are comparing a *sota*, a woman who

secluded herself with a man, to a woman who remarried her former husband. Both are now labeled defiled, with the same consequences as those attendant upon any woman who is called defiled. "Included in this prohibition," says Maimonides, "is also a woman who was (or is suspected of being) unfaithful to her husband . . . that she cannot rejoin him, as it is written 'after she is defiled'—and she is defiled." The verse remains in its context of a woman who is remarrying her former husband. What the sages are saying, according to Maimonides, is that *a fortiori*,⁷³ one can deduce the case of a *sota* (who committed or is suspected of committing a greater sin) from the case of a woman who is remarrying her former husband, that like the latter, the former too is called "defiled." There is no interference with the text itself. The text remains in exclusive reference to a woman who is remarrying her former husband. Only by analogy is the text made to include a *sota* as well. But that is not what the Gemara is saying. To the Gemara, the sages "tore out" the phrase from where it was written and attached it elsewhere (possibly to Num. 5, where the subject of *sota* is taken up). Maimonides could not accept deprivation of peshat and substituted a different version of the sages.⁷⁴

3. The following example is most subtle. The Babylonian Talmud in *B. Kam*. 82b–83a and parallels (both in the halakhic *midrashim* and in the Palestinian Talmud) utilizes the seeming difficulty, indeed the nigh impossibility, of measuring out an eye for an eye in the literal sense of calculating and inflicting equivalent physical losses in order to prove that when the Torah said "an eye for an eye," it did not mean a physical eye for an eye but monetary compensation. The clear implication of the Talmud is that the wording "an eye for an eye," despite its plain meaning to the contrary, was intended from the very beginning to be understood as monetary compensation. But according to Maimonides⁷⁵ in *The Guide of the Perplexed* (3.41), the wording of the Torah conveys physical punishment. The rabbis changed that to monetary compensation, following the Torah "whoever destroyed a human limb, similar punishment shall be meted out to him." However, since this is a practical impossibility—no two people are alike and similar bodily punishment is just not feasible—the rabbis decreed a substitute: monetary compensation. When one studies the verse, one has to interpret it to mean physical punishment. Similarly, when one

gives reason for the laws of the Torah, one has to give a reason commensurable with the sense of physical punishment. God, the author of the Torah, could be exact in meting out physical punishment measure for measure. Man cannot do that. He has to follow the oral law which decreed "incidents caused by humans which cannot be exactly retaliated, shall be compensated monetarily." The difference between the Talmud and Maimonides is clear. The Talmud saw no inconsistency between the wording of the text and the administering of the law. Both affirm the same principle, that of monetary compensation. In contrast, Maimonides saw in this law an inconsistency between the wording of the Torah and the way the rabbis interpreted it. He, therefore, assigned the wording of the Torah to what the perpetrator deserves and the interpretation of the rabbis to what he actually gets. He deserves physical punishment but receives monetary punishment. For the Talmud there is no discrepancy between the plain meaning of the text and its rabbinic interpretation; for Maimonides there is a discrepancy between the two. He mitigates it somewhat by saying that the Torah expresses the ideal, as it were, and the interpretation of the rabbis the viable. To men physical bodily punishment is not a viable alternative. Again, Maimonides cannot accept incongruity between peshat and derash.

In *Mishnah Torah*, however ("Laws of Wounding and Damages" 1.6), Maimonides retreats somewhat from this stance. He says: "even though these laws [pertaining to monetary compensation] appear to be a matter of [rooted in] the written Law, they were all made clear to us by Moses our teacher from Mount Sinai."⁷⁶ However, it only "appears" to be a matter of the written Law. It is not written explicitly in the Torah.⁷⁷ It is difficult to know whether there is here a change of mind or perhaps, in *Mishnah Torah*, written in Hebrew and intended for a different audience, he did not dare say that the intention of the Torah was physical punishment, and he hid behind an ambiguity.⁷⁸

Also, of the two instances mentioned above where the Talmud says "the Torah expressly said that they have to pay money," the first instance is not quoted by Maimonides at all (in the "Laws of Witnesses" 18.1). The second instance, that of a person injuring another person, is quoted by him ("Laws of Wounding and Damages" 3.9; see also 1.3), but he omits the Gemara's exposition and

substitutes another. Instead of quoting the Gemara's exposition that a person who had injured another person pays money (even though he also receives forty stripes for having violated the divine injunction not to injure a human being) because of the redundancy of the phrase (in Lev. 24:19) "so shall it be rendered to him," Maimonides quotes another verse, Exod. 21:19: "he shall pay for the loss of his time and shall cause him to be thoroughly healed." Maimonides clearly was not satisfied with the Gemara's expositions. They were not close enough to peshat. He omitted one and substituted another verse for the other.

For some reason that I cannot explain, Maimonides was less willing to follow the peshat when it came to counting the number of the commandments. He counts for instance among the negative commandments (no. 282) not to convict a person on the basis of a majority of one. He cites Exod. 23:2: "You shall not follow the multitude to do evil." That verse plainly understood hardly supports the notion that a majority of at least two witnesses is required in capital cases. Similarly, in negative commandment no. 287, he counts among the commandments not to accept the testimony of a relative. The verse he cites is Deut. 24:16: "Fathers shall not be put to death because of their children and children shall not be put to death because of their fathers." Again, the simple meaning of the verse is not testimony. He is, however, following the principle he set up in the first part of the work, called *Shorashim* (roots), in root two. No exposition, no *derasha*, shall be included among the commandments (they are considered *asmakhtot*)⁷⁹ unless the sages themselves indicated that this particular exposition is part of "the basic laws of the Torah or that it is scriptural. Then it is worthy to be counted among the commandments, since those who received it said that it was like scripture."

In the two examples mentioned above, Maimonides conceived of the sages of the Talmud as having thought of them as being "part of the basic laws of the Torah." He almost tells us that, perhaps apologetically, in no. 287. After stating the commandment and the verse, he says "the received interpretation is found in the *Sifrei* that parents shall not be put to death by the testimony of their children and children shall not be put to death by the testimony of their parents." He needs the support of the *Sifrei* to show that this interpretation was considered by the sages as the scriptural meaning

of the commandment. On his own, he might not have said so. What still remains puzzling is his assertion in negative commandment no. 299 that the simple meaning of Lev. 19:14 “You shall not put a stumbling block before the blind” is not to give false advice to an ignorant person. Here it seems Maimonides sincerely believed that this is the plain meaning of the text, and, unlike no. 287, in which he may have had a different feeling but bowed to the *Sifrei*, to the “received interpretation,” here he added his own explanation, that not giving wrong advice is the plain meaning of the text.⁸⁰

One is inclined to conclude that when Maimonides wrote the *Book of Commandments*, he was less attracted to peshat than when he wrote the *Guide of the Perplexed* and the *Mishnah Torah*. Perhaps in the *Book of Commandments* he wanted to sound less radical than in the other books (the commandments are recited with different poetical embellishments in some synagogues as part of the prayer ritual). Surprising, of course, is his revolutionary attitude to derash and peshat in *Mishnah Torah* and in the *Guide of the Perplexed* rather than his traditional attitude in the *Book of Commandments*. The latter needs no explanation, the former does. One can safely assume that Maimonides would not have abandoned the exposition of the Talmud without having what may be called “meta-halakhic” reasons. He considered the relationship between peshat and derash as a nonhalakhic matter, a matter of thought, thus not subordinate to the Gemara.⁸¹ Just as in matters of thought, in contradistinction to practice, he often deviates from the Gemara, so did he in matters belonging to the relationship of peshat and derash. The Gemara’s halakha he always accepted, the exposition supporting the halakha he sometimes either modified or ignored. The exposition of halakha belongs in the realm of thought. And just as he attempted to reconcile the conflict between revelation and reason in a way that favors reason, so did he try to reconcile the conflict between peshat and derash in a way favoring peshat. Unlike the Rashbam, he could not, as it were, stand the tension between peshat and derash and hold on to both. He was compelled to choose between the two and he occasionally chose the peshat—the more reasonable.