

The Dead Sea Scrolls controversy has been engaging the attention of the public for the last ten years. It has touched on many and varied fields, and its impact has been felt in many a discipline. In this essay, originally presented as a paper at a recent convention of the Rabbinical Council of America, we have for the first time an elaboration of the effects of the Scrolls on the Halakha. Dr. Hoenig, a member of TRADITION's Editorial Committee, is Director of the Yeshiva University Department of Adult Education (YUDAЕ), and professor of Jewish History at Yeshiva. He is a frequent contributor to scholarly journals on the history of the era to which the Scrolls are generally ascribed. He is the author of such books as *The Great Sanhedrin*, the recently re-issued *Guide to the Prophets*, and other important works.

HALAKHIC IMPLICATIONS OF THE DEAD SEA SCROLLS

At about the time of the establishment of the Jewish State in Israel, a number of scrolls were discovered in the Judean desert. These were found in a cave near the Dead Sea, in an area called Qumran, where some ancient community once lived. Scholars assume that this was an Essene community. Melodramatic events surrounded the discovery, its promulgation to the world, and the final purchase of the scrolls by the State of Israel for keeping in perpetuity. The scrolls were, and still are, believed by most scholars, excepting a few dissidents, to be most ancient, from the decades preceding 70 C.E. when the Second Temple was destroyed. Just as the resurrection of the homeland of Israel was heralded as the fulfillment of the ancient promise of the "Return to Zion," so too the finding of the scrolls meant to these scholars—Israeli and Gentile—the recovery of the most ancient of holy documents, of extreme value for a reaffirmation of their faith in the Book of Books and in the sources whence modern religions spring. As a result, a *היכל הספר* or "Shrine of Books" has been created in Jerusalem, perhaps somewhat chauvinistically and mystically to

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supplant the "Ark of the Covenant" which tradition tells us was hidden in the days of the Second Temple.

The scrolls are of two types—biblical and non-biblical works. Their antiquity, therefore, if authenticated, would mean to the religious world the possession of the earliest extant records of religious writings. The Scriptures or even the apocryphal works we now possess are only copies which were penned about the 8th century. A complete Hebrew manuscript of the Bible before that time is non-existent. Of what extreme value to us would it be were we to have the Mishnah actually compiled by Rabbi Judah ha-Nasi's own hand, or how precious would be the Sefer Torah of Rabbi Akiba. It is with such optimistic anticipation that some biblical scholars gaze upon these scrolls, some even boldly affirming that these copies were used by the founders of Christianity. If these Dead Sea manuscripts truly antedate any present possession by a thousand years, they should throw light on one of the most crucial periods in history. The Christian world is still agog, discussing the implications of these findings upon Christianity in general and upon the identification of the *Christos* in particular. Newspaper accounts have even noted that such scholars as Allegro are accusing Catholic savants such as de Vaux of suppressing the new finds for fear of repercussions on Christianity.

Before entering into an analysis of the points of contact of the Halakha and the scrolls, it is important to understand what Gentile theologians, fundamentalists as well as liberals, think about these findings. We may even inquire: is their line of reasoning about the scrolls intellectually parallel with ours? Are we unwittingly being influenced by them, even as some synagogues have assumed a Protestant mien, and some preachers and spiritual leaders have become merely "pastors of the flock?" A number of rabbis preaching on the Dead Sea Scrolls have absorbed the sensational, the popular—not realizing, I believe, that the ultimate conclusions may undermine the very foundations of our belief. Let us, therefore, first investigate some of the non-Jewish approaches.

Many Gentile theologians were alarmed, fearing that the Dead Sea Scrolls would threaten the accepted versions of Christian origins. Discussion developed about the sacraments, the effect of the Qumran literature on the gospels, and the influence of the Dead Sea community upon Christian ideals. Other Christian scholars thought "that the new finds throw light on the language

and world of ideas in the New Testament," that now they had actual proof of the historicity of Christianity and even definite proof of the Haftarat which Jesus was supposed to have read in the synagogue, according to rabbinic ritual. The general consensus is "that the scrolls have not revolutionized New Testament theology; rather they have filled in an almost unknown background to the historical origins of Christianity." From these scrolls, studies were made, for example, of the rite of baptism as practised in the desert community, not merely as a source of Christian practise, but with comparison to טבילה or washing away of ritual impurity. From this point theologians of the scrolls became involved in the sacramental baptism of Jesus. They advanced to further comparison of the doctrines in the Sermon on the Mount with the teachings of the Qumran community, sidetracking Hillel's sources and finding parallels between such Qumran phrases as "lustful eyes, lustful spirit" and Jesus' "forbidding looking at a woman with lustful intention." In other words, it seemed that Christian theologians placed great value on Qumran literature, thereby negating the Hebraic or mishnaic sources. Such was the method of German higher criticism, which was but a branch of Kultur anti-Semitism. Some scholars even went so far as to demonstrate from these scrolls the Pauline doctrine that one does not attain justification by "works" but merely by *faith* in the *Christos*. They found parallels to this doctrine in one of the Thanksgiving Psalms in the collection which reads "that man is guilty from his birth to his death; hence he needs redemption, etc." Are we not, therefore, to be on guard when such hypotheses are developed by Gentile theologians—and, at the same time, Israel proudly regards the scrolls as rightfully belonging to us, to the "Shrine of Books" in Jerusalem!

The theologic development herein described reached its apex when one Dupont-Sommer interpreted the scrolls as telling of a crucifixion and the alleged resurrection and return of the "teacher of righteousness." Even the Gentile world was already upset, as evidenced in the publicity in the magazine *The New Yorker*,¹ until finally, under the imprimatur of the Church, a booklet on the Scrolls and the Bible appeared² in which it was asserted that

1. Issue of May 14, 1955.

2. Rev. Roland Murphy, O. Carm., *The Dead Sea Scrolls and the Bible* (Newman Press, 1956).

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any such views "may be relegated to the limbo of abortive ideas," and later with even more finality: "The influence of Qumran upon Christianity was largely in an indirect manner ... It would be a mistake to forget that the contemporary influences on Christianity were on a broader basis than Qumran Essenism." With one sweep of official pronouncement, not unlike a papal bull, the effect of the Dead Sea Scrolls seemed to be dimmed and diminished in the eyes of the Gentile world. If the foregoing quotation displays the reaction of non-Jews to the scrolls, where do we, as traditional, observant, and believing Jews, stand?

Few Jewish scholars have dabbled in the Dead Sea Scrolls, perhaps because of the inaccessibility to Jericho and that Jordan area. Perhaps, too, Jewish scholars have not been diligent in their investigations, either because they followed blindly the Gentile approach or because they dismissed the entire issue. *Roshe ha-yeshibah*, giving *shiurim* and interested only in talmudic learning, surely do not look to the Dead Sea Scrolls to explain any phase of *טבילה* even if recorded in the Manual of Discipline, or to support any notion of *איסור מלאכה בשבת* even if elaborated in the Zadokite or Damascus Fragment. To them these scrolls are not and never will be in the category of sacred literature. For them the Dead Sea Scrolls are only irrelevant relics.

On the other hand, some Jewish scholars have been swayed. One, a professor, in a "little Hillel book" for college students,¹ believes that Hillel was influenced by the Covenanters and that there are parallels between Hillel and the sectarian Dead Sea movements in many matters, because Hillel was once in the Jericho area, as recorded in the Talmud. Moreover, the notion of Midrash, of logical exposition, was obtained by Hillel from this Qumran community. Later "he set out to educate his students in the *new* doctrine." Thus, because of these findings a complete distortion of Jewish history results. Another Jewish professor, an expert on the Tosefta, identifies the *חברים* in talmudic literature with the members of the Qumran community. Based on the Dead Sea Scrolls a re-interpretation of *סדר זרעים* would be necessary to explain the *מעשרות וטהרות* of the *חברים* and the *עמי הארץ*. But this, too, is only a result of fantasy and an unscientific acceptance of a still undecided issue.

1. Nahum N. Glatzer, *Hillel the Elder (The Emergence of Classical Judaism)* (New York: B'nai B'rith Hillel Foundation, 1956).

It is urgent that we examine carefully some implications upon halakhic thinking, were we to accept the scrolls, as do most scholars, as authentically ancient documents. If paleography—the science of ancient writing, archaeology, the Carbon 14 test, and the comparative linguistic studies prove that the Dead Sea Scrolls are not a hoax but truly authentic, we may ask: what effect can it have on us? What problems might we meet? What attitude would rabbis and scholars have to adopt if the scrolls from the eleven caves are genuine?

Twenty three biblical books out of the total of twenty four were found in the caves. Megillat Esther is missing. Perhaps it will be found. Yet its absence here among the so-called Second Commonwealth literature presents conjectural problems. We may ask: Is Esther missing from this ancient library because it was not canonized before 70 C. E.? Are we to conclude that Jews did not observe Purim in the Second Commonwealth, and that only “the Day of Nikanor,” recorded in the Second Book of Maccabees, was observed? Was Purim as a religious festival instituted only after Yabneh and Usha? Is the first actual reference to the reading of the Megillah that of R. Meir who wrote his own Megillah when in Asia Minor? We know that it was R. Joshua ben Levi (3rd century) who prescribed that the Megillah be read at night. Was it practised before?

Or shall we say that Esther is not found in the collection because it does not contain the name of God, and no book can be canonized unless it bears the Name. Is it thus that the Dead Sea Scrolls corroborate the singularity of Esther? Are we to conclude that the Megillah had no sanctity and was included into the canon only by popular request—*כתבנוי לדורות*?¹ Moreover, are we to infer that because Purim had no religious allusion but was a convivial day in ancient times that it is therefore prominently marked by its absence from this cave collection? Or are we to add, that because of this ancient historic situation which the caves reveal, the rabbis declared: *בטלה מגילת תענית, הנוכה ופורים לא בטלו*?² Such analysis, based on the Dead Sea Scrolls, might lead to a different approach to the importance of Purim. How could we reconcile this with the notion of the superiority of Purim as expressed halakhically by the Mordecai: *ועדיף יום פורים כיום שניתנה בו התורה*?³

1. *Megillah*, 7a.

2. J. T. (ed. Krotoshin), *Meg.*, 70d.

3. On *B. M.* 110b; cf. *She'iltot, va'yakhel*, 66.

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Another befuddling complexity that might confront us were we to affirm the ancient origin of the scrolls is the *פרשיות* in our Tefillin. Some phylacteries were found in the caves. As we know, the order of the *parshiyot* is *שמע, והיה אם שמוע, קדש, והיה כי יביאך, והיה אם שמוע* according to the ancient Palestinian practice. The Babylonian Tefillin and those of Egypt and Spain had a different order: *קדש, והיה כי יביאך, והיה אם שמוע, שמע* presumably to keep the *והיה's* together, or as expressed in a responsum: *רב האי גאון היה מניח סימן היות להדדי, פירוש והיה כי יביאך והיה אם שמוע*. Rashi followed the Palestinian custom; Rabbenu Tam accepted the Babylonian or Gaonic system. The Tefillin found in the Dead Sea area conform to Rav Hai's, the Babylonian order, as favored by Rabbenu Tam. As a result of this finding, a scholar in the *London Jewish Chronicle*¹ asserted: "Now archaeology came magnificently to Rabbenu Tam's aid. The finds in the caves put the view of Rabbenu Tam in an entirely new light. They make it probable that he was in possession of some ancient tradition, which reflected the Palestinian usage of pre-talmudic times." Are we to conclude therefrom that the Jewish world in general in accepting Rashi's opinion is historically wrong, that the Dead Sea Scrolls now confirm the true halakhic practice for Tefillin? This is hard to believe despite the announcement in the Israeli daily *Ha-aretz* that this is the first time we have before us a pair of Tefillin from the Tannaitic era.

A further problem besetting us, if we accept the ancient origin of the scrolls, is that of the script on the biblical scrolls. It is known that the text we now possess of the Sifrey Torah follows the masoretic rendition, which though fixed historically about the 8th century, nevertheless is accepted traditionally as going back to the Soferim, to *ספר עזרה* or *ספר עזרא*. Indeed Josephus also mentions² that the text of the Torah was kept unimpaired and guarded zealously. Even the differences between the Pharisees and Sadducees were *not* on the reading of the text, but rather on the interpretation of the text.

If the readings in the Pentateuchal scrolls now found are the same as ours, does it not uphold the truth of the masoretic text? In many instances the halakhic mode and masoretic style are enhanced. On the other hand there are many instances where

1. Issue of July 17, 1953.

2. Josephus *Contra Apionem* 6.

the masoretic text is not in agreement with the readings disclosed in these Dead Sea Scrolls. To give one example—our reading in Gen. 26:32 is **ויבאו עבדי יצחק ויגדו לו על אדות הבאר אשר הפרו** ויאמרו, **לא מצאנו מים**. The scrolls read **ויאמרו, לא מצאנו מים**. Which is correct? Interestingly, the Midrash on the verse remarks, **אין אנו יודעין אם מצאו אם לא מצאו**. Are these scrolls to bring confusion into our accepted texts, with the implication that they are faulty and a later re-writing? These findings may involve us in serious questions of **קרי וכתוב**, of **חסר ומלא** and the true mode of writing a Sefer Torah.

Another classical example of writing is the well known verse quoted in the Passover Haggadah for the wise son: **מה העדות** אשר צוה ה' אותנו **והחוקים אשר צוה ה' אלקנו אתכם**. The scrolls read **אשר צוה ה' אותנו**, doing away with all homiletic explanations. This latter reading is in the *Mekhiltah*, too, and in the Jerusalem Talmud. Does it mean that our Torahs are not correct, that Halakhah is poles apart from actuality? One can visualize the frightening results if these scrolls are proved authentic.

A still more interesting matter of halakhic import is the crossing out of words in the text. Never do we have a line in the Torah crossed out to show some mistake. If anything was in doubt perhaps dots were put over them as in the case of **וישקהו** or **הנגלות לנו ולבנינו עד עולם**. Thus we find references in *Abot d'Rabbi Nathan*¹ to the dotted passages with the remark **אלא כך**, אמר עזרא, **אם יבא אליהו ויאמר לי מפני מה כתבת כך**, אומר אני לו **כבר נקדתי עליהם ואם אומר לי יפה כתבת אעביר נקודה מעליהן**. In the Dead Sea literature, words were crossed out. Hence, if these are ancient and exact, do we infer that errors were left in our texts? This is inconceivable.

A striking feature in this realm of the correctness of our Sifrey Torah may also be evident in the question of the **ג' הפוכה** as in the separation of the 85 letters of **בנסוע**. Are these parentheses dividing the portions? Are they ellipses as found in the Dead Sea texts? Must we follow the order of the Dead Sea Scrolls orthography—keeping such markings—or is such a Sefer Torah to be considered invalid as expressed by the Maharshah:² **ועל זה סומכין הנקדנים לעשות ב' נוגין אחת קודם ויהי בנסוע ואחת אחריה אבל במדוייקים לא ראיתי וקרוב בעיני שפסולה לפי מה שפסליגן בחסר**

1. Chapter 34.

2. On *Sabbath* 115b.

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ויתיר אפ' אות אחת ולכתחילה לכ"ע אסור... ואולי זה הציור של נון
הגיה הפוכה תלמוד אחר הגיה. We may ask—are we to follow the
Maharshal directive or to accept the Dead Sea Scroll mode of
writing?

One of the famous scrolls discovered is the Isaiah Scroll. Therein
the words are written מלא *plene*, with final letters מנצפך and *matres
lectionis*, אמות הקריאה. Thus one scholar remarks: "The full use
of אמות הקריאה makes the Isaiah Scroll source an ennobling one
to *reconstruct* forms completely lost before masoretic times."
Can we accept this, with the result that the 20 Haftorahs from
Isaiah we read during the year are faulty on account of the
authenticity of the Dead Sea Convent Isaiah Scroll? Thus,
Chap. 14.2 MT has והביאום אל מקומם. The Scroll has אל אדמתם.
MT 19.18—עיר ההרס; the Scroll—עיר החרס. Instead of MT 40.12
מי מדד בשעלו מי ים the Scrolls read מי מדד בשעלו מי ים. With such
textual differences, inconsistencies, and contradictions, the Dead
Sea Scrolls have placed before us the problem of comparing the
biblical readings quoted in our tannaitic and rabbinic sources
with readings in the Septuagint and other extraneous sources.
In all, if our scientific youth is convinced that the scrolls are
genuine, they will ask, where has God's message been truly
preserved? Which are we to follow?

If the biblical scrolls involve us in halakhic problems pertaining
to our holidays, our Tefillin, and ספר תורה מונה, then the non-
biblical works discovered present to us complications of Jewish
beliefs and observance. Observant Jews, were they to accept the
scrolls, would be faced with skepticism and internal doubts.
A few examples will illustrate this.

There is a פשר הבקוק, called a Commentary to the prophetic
book of Habakkuk, which consists of three chapters. This פשר
or Commentary on two chapters speaks of a מורה צדק, a "teacher
of righteousness." This allusion has troubled many a mind. Is it
evidence of the Messiah? Enmeshed in this is a still further
complication. Were commentaries on the Prophets written during
the Second Temple era, similar to the ספרא וספרי מכילתא on
the Torah? The latter serve us as the basis of our talmudic
thought. Are we to regard the commentaries on Habakkuk and
Nahum as presenting to us those beliefs current during the Second
Temple Era, which we as observant Jews should now continue
to maintain?

Let me quote one instance. The following is the translation of the commentary on Habakkuk 2:15: “ ‘Woe unto him that plies his neighbor with drink, that pours out his flask (hematho), yea, makes him drunk, in order to gaze on their festivals!’ This refers to the wicked priest, who chased after the true exponent of the Law, right to the house where he was dwelling in exile, in order to confuse him by a display of violent temper (hamatho), and who then, on the occasion of the rest-day of Atonement, appeared to them in full splendor in order to confuse them and trip them up on the day of the fast, the day of their sabbatical rest.”¹

On this basis we would believe that the כהנים of the Second Temple definitely had to be supplanted by a מורה צדק. Christianity’s interest in the scrolls is thus apparent. Are we to become apologetic and perhaps enter into the same discussions as the medieval polemicists?

In like manner our special reading of Habakkuk on Shabuot because of the Revelation at Sinai would raise certain questions if we value these scrolls. Are we to parallel this מורה צדק who comes forth with another law and a new revelation with the verse: יצאת לישע עמך, לישע את משיחך? Such would give us cause for grave concern. Perhaps this is the reason we read the *third* chapter of Habakkuk—one which is not included in the finds of the scrolls which are so disturbing. Our rabbis of old were indeed far-sighted in their choice of texts.

In this Qumran literature there is also a *Manual of Discipline* describing the actions of a group whom scholars call the Essenes or חסידים. Very little trace of them is found in our rabbinic literature. They are known to us only from Philo and Josephus. This Manual tells of a *new covenant*. In it, it is even stressed that *one is to hate his enemies*, contrary to even Christian thought or to בנפול אויבך אל חשמה. Are we to assume that since we do not have the specialized libraries of the Sadducees or even of the Pharisees, except for rabbinic literature, that these new finds—the Qumran library of the Essenes—are true teachings of the ancient Jews? The growing faith in the Dead Sea Scrolls may give rise to such doubts.

There is also a copy of the Book of Jubilees in the collection.

1. T. H. Gaster, *The Dead Sea Scriptures in English Translation* (Garden City, N.Y.: Doubleday Anchor Books, 1956), p. 255.

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This stresses the celebration of the festivals on particular days, not in accordance with our practice. Holidays occur on the same day of the month and week, for the calendar consists exactly of 52 weeks, 364 days, or 4 seasons of 13 weeks each or exactly 91 days in a תקופה. For instance, Shabuot in Jubilees is on the 15th day of Sivan, just as Pesach and Sukkot also occur on the full moon, and this is always on a Sunday. The notion of Sefirah is lacking in the book. We are here confronted with the problem of our traditional observance of the calendar. Was the calendrical system now rediscovered in the Jubilees Scroll the authentic one, and our system only a result of the insistence of R. Joshua and Rabban Gamaliel, or later Hillel II, when they pursued their studies in the סוד העבור? Acceptance of the scrolls as undisputed truth challenges the correctness of our observance of the Holy Days.

Since the Qumran literature is sectarian literature, ספרי מינים, the problem before us is: are they any worse than the apocryphal books, such as Ben Sira quoted in the Talmud and copies of which were in the hand of Saadia Gaon? Are we to revere them too? Or, are these truly in the category of ספרי בן לענה or ספרי הגליונים or evangelical works to be destroyed, not to be saved on the Sabbath even if they contain the name of God? With such a premise it may well be asked: why do our rabbis, lecturers, and scholars persist in kindling such "strange fires?" Why did Israel spend so much money on documents which perhaps do not bear on Judaism at all? Are we unwittingly, in giving publicity to these scrolls, promulgating non-Jewish notions and undermining our own foundations? In all of the scrolls the Tetragrammaton is not found. Is this not evidence of the sectarian basis of these scrolls?

Many more implications may be presented. Only a few more examples will suffice to reveal the weightiness of the problem of authenticity.

In a very recent discovery an interesting quotation reads: ולא (יקרב) אל אשה לדעתה למשכבי זכר כי אם לפי מלאות לו עשרים שנה בדעתו טוב ורע, ובכן תקבל להעיד עליו משפטות התורה ולהתיצב במשמע משפטים.

This peculiar Hebrew is translated in *The Journal of Biblical Literature*:

And he will not approach unto a woman to have sexual intercourse with her *unless he is 20 years old* when he will know good and evil.

Anan, who hated Hillel and the Rabbanites and considered themselves followers of Shammai. Indeed, the peculiarities of Halakhah among them, too, can be seen in their out-Shammaing Shammai.

What we really possess in these scrolls are early Karaitic writings. These dissidents against Halakhah sought to organize their lives on the basis of anti-rabbinic traditions, and there were many "fringe" groups.¹ Their philosophies, religious ideas, and teachings, therefore, are not a menace to our tradition. Saadia had vanquished them in his day; their scrolls discovered today now confirm the power of Saadia among the Gaonim. Of him can we say, to quote Habakkuk, יצאת לי שע עמך. The Torahs found in the Dead Sea area have no sanctity; we need not, therefore, be disturbed by any conclusions of halakhic import, for there are none. The Karaitic origin and content of the scrolls demonstrate that Halakhah remains supreme as taught by the Soferim in the Yeshivot of the Second Temple Era and in the period till the compilation of the Mishnah. Recognizing the Karaitic sources of these Dead Sea Scrolls, one may affirm strongly that they did not merit a resurrection. Hence, even to the scholar, as to the rabbi, no real halakhic problem exists.

Maimonides' Ninth Principle remains true: "This Torah will not be changed nor will there be another Torah revealed by the Creator."

1. For an excellent discussion of these groups see Salo W. Baron, *A Social and Religious History of the Jews* (New York: Columbia U. Press, 1957), vol. V, chaps. XXV and XXVI, and nn. 337 ff. and 397.