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Rabbi Moshe Shmuel Glasner, *The Dor Revi'i*

I

In the spring of 1923, about to realize his lifelong dream of *aliyah* to Israel, Rabbi Moshe Shmuel Glasner (1856-1924), *z.l.*, addressed some 10,000 well-wishers at the Klausenburg (Cluj) train station, before taking leave of the city that, for over forty years, he had served as Chief Rabbi. Having witnessed the inhuman brutality and carnage of World War I, the dismemberment of the Austro-Hungarian empire and the downfall of the Hapsburg dynasty under whose protection Hungarian Jewry had long survived and even flourished, and sensing the rising tide of nationalist passions surging through Central Europe, R. Moshe Shmuel implored his flock to follow him to Israel while they still could, "because," he warned, "there will come a time when you will want to leave, but you will no longer be able to." With what anguish and pain must those who heard, but did not heed, those prophetic words have recalled them when the awful moment came when they did want to leave, but no longer could.^[1]

When R. Moshe Shmuel left Klausenburg forty-four years after succeeding his father, R. Avraham, as Chief Rabbi, he occupied by virtue of office, family connection, and scholarship, an undisputed position among the rabbinical elite of the early twentieth century. A great-grandson of the *Hatam Sofer*, and author of several renowned scholarly works, especially his commentary, *Dor Revi'i*, on *Hulin*, R. Moshe Shmuel's greatness was acknowledged by such Lithuanian *gedolim* as Rabbi Haim Ozer Grodinsky,^[2] R. Meir Simkha Hacoheh of Dvinsk,^[3] and, of course, Rabbi Abraham Isaac Hacoheh Kook, alumnus of the Volozhin yeshiva, the fervent admirer and devoted friend of R. Moshe Shmuel.

A skilled and sometimes acerbic polemicist,^[4] possessed of a magisterial bearing and countenance, R. Moshe Shmuel never shrank from halakhic or communal controversies. Although his scholarship and distinguished lineage gave R. Moshe Shmuel considerable latitude to take controversial stands in such disputes, neither his family connections, his personal stature, nor his learning could shield him from the

violent reaction to his outspoken Zionism.

Deeply moved by the writings of Theodore Herzl, R. Moshe Shmuel enthusiastically embraced Zionism, undeterred by the nearly unanimous opposition of the Hungarian Orthodox rabbinate. When the First World Mizrahi Congress was held in Pressburg in 1904, most of the leading Hungarian rabbis denounced the Congress for aiding secular Zionism. Almost the only Hungarian rabbi at the Congress, R. Moshe Shmuel, in a memorable address, defended both Zionism and Mizrahi, rebuking those who portrayed the effort to reestablish the Jewish homeland as inimical to Orthodoxy. Estranged from his colleagues in the Hungarian rabbinate, R. Moshe Shmuel endured the unbridled vilification and rage of the extreme anti-Zionists in defiant isolation -- but never in silence. He spoke out ceaselessly on behalf of Zionism and Mizrahi, and shortly before his departure for Israel, he wrote a final work on Zionism and faith, arguing that it was the anti-Zionists who, in denying the national aspect of Judaism, had deviated from Orthodox principles.^[5]

So vicious was the abuse visited on R. Moshe Shmuel that in 1923, Rabbi Kook rose to his defense in a famous open letter.^[6] By demeaning a sage of R. Moshe Shmuel's stature ("*gadol ha-dor b-Torah, b-hokhmah, b-yirat shamayim, u-b-zkhut avot, u-b-midot t'muriot*"), his attackers, irrespective of the merits of their case, had mounted an attack against the Torah itself.

Not even in Klausenburg was R. Moshe Shmuel secure from the anti-Zionist vitriol. Numbering about 20,000, the Jews of Klausenburg were divided into separate Orthodox and non-Orthodox communities.^[7] In Klausenburg, as in most of Hungary, *Hasidut* made only limited inroads among the Orthodox who clung to the teachings of the *Hatam Sofer*. However, late in the nineteenth century the westerly migration of Polish Jews brought many Hasidim into Hungary, especially into Transylvania on Hungary's eastern border. Unwelcome in most Hungarian communities, the newcomers were received cordially by R. Moshe Shmuel,^[8] who even asked visiting *rebbe*s to address the community in his own synagogue on the Sabbath.^[9] However, most^[10] Klausenburg Hasidim, incensed by R. Moshe Shmuel's Zionism, established a separate community of their own in 1921. They chose as their spiritual leader a young rabbi already noted for his militant anti-Zionism, Rabbi Yoel Teitlebaum. From his residence in Satmar, where he as yet occupied no official position, Rabbi Teitlebaum waged a fierce personal campaign against R. Moshe Shmuel. Unrelenting, Rabbi Teitlebaum continued his battle, after R. Moshe Shmuel's departure, against his son and successor, R.

Akiva, even though R. Akiva, seeking reconciliation, never openly expressed Zionist sympathies.^[11]

In 1923, R. Moshe Shmuel, his wife, Tsivia,^[12] the eldest of his four sons, daughter-in-law, and five grandchildren settled in Jerusalem where he spent his last year and a half. While in Jerusalem, R. Moshe Shmuel and his wife were the guests of Rabbi Yehuda Leib Maimon. In his history of the Mizrahi movement,^[13] Rabbi Maimon recounted a visit R. Moshe Shmuel made to a new agricultural settlement. "He was," wrote Rabbi Maimon,

a venerable *gaonic* rabbi like those of old, an erect cedar, tall, an unyielding *mitnaged*. A keen debater, he was sharp as a razor in polemical disputes. His belief in Zionism was solid as a rock, and he subjected every question related to Zionism to a cold analysis. But when he saw our youth engaged in plowing, planting, and harvesting, he was seized by a Hasidic ecstasy. Tears of joy flowing from his eyes, he went out to dance with the young people, hand-in-hand, shoulder-to-shoulder. And with an emotion unlike any that I ever saw, he cried, "So it is, our hope is not yet lost (*Omnam kein, od lo ovdah tikvateinu*)".

Just a year and a half after arriving in Israel, during the *Hakafot* service on the night of *Shemini Atzeret* in 1924, R. Moshe Shmuel died suddenly at the age of sixty-eight.

At this juncture in Jewish history, when events are forcing the entire Jewish community, but particularly Religious Zionists, to engage in painful self-examination, a reconsideration of the life and work of this Founding Father of Religious Zionism, whose stature as a *gaon* and as a *gadol b-Yisrael* is beyond question, is both timely and, some seventy years after his death, long overdue. In this time of peril, fear, sorrow, and doubt, his legacy of scholarship, courage, and humanity is of more than just antiquarian interest.

II

Moshe Shmuel Glasner was born in Pressburg in 1856. His father, R. Avraham, was then a rabbi at the Pressburg Yeshiva. While still a student at the yeshiva, R. Avraham's piety, kindness, and brilliance endeared him to the *Ktav Sofer*, whose close friend and confidante he became. R. Avraham married Raizl Ehrenfeld, the niece of the *Ktav Sofer* and the eldest granddaughter of the *Hatam Sofer*. In 1866, R. Avraham, on the recommendation of the *Ktav Sofer*, was chosen Chief Rabbi of Klausenburg, where he served until his death in 1878, at the age of fifty-two.

The only son of R. Avraham and Raizl, Moshe Shmuel was taught only by his father. His brilliance was already evident at a very young age, and rabbis and scholars visiting Klausenburg were quickly

introduced to his critical, questioning spirit. Though not yet twenty-two when his father died, R. Moshe Shmuel, who, apart from a brief sojourn at the Pressburg Yeshiva, had never left his father's side, was unanimously elected to succeed his father. Despite his active public life as Chief Rabbi, R. Moshe Shmuel was a prolific author. Besides the *Dor Revi'i* and his essay on Zionism, R. Moshe Shmuel published five important halakhic monographs, *Or Bahir* on the laws of ritual baths, *Halakhah l'Moshe* and *Y'shanah l-Sh'hitah* both on the laws of *sh'hitah*, *Matzah Sh'murah* on the laws of Passover *matzot*, and *Chaker Davar* on civil marriages and conversions. In honor of the twenty-fifth anniversary of becoming Chief Rabbi, R. Moshe Shmuel's students published recollections of his weekly discourses on the Torah and his novellae on various *sugyot* in a volume called *Sh'vivei Eish*. A frequent contributor to the rabbinical journal *Tel Talpiot*, R. Moshe Shmuel also wrote many hundreds of responsa and commentaries on most tractates of the Talmud. None of the responsa was published in his lifetime, and most were lost or remain unpublished. However, two volumes of responsa recovered after World War II were published by R. Moshe Shmuel's grandson Rabbi Abraham Klein, under the title *Sh'eilot u-T'shuvot Dor Revi'i*. Containing only a fraction of his responsa from his youth and early middle age, the two volumes offer many insights into R. Moshe Shmuel's personality, his halakhic approach, and into Hungarian Jewish life in the late nineteenth century. R. Moshe Shmuel's still unpublished commentaries on tractates of the Talmud other than *Hulin* are in the possession of Mosad Harav Kook.

Despite his impressive earlier output, R. Moshe Shmuel's scholarly reputation now rests primarily on the *Dor Revi'i*. Simply put, the *Dor Revi'i* revolutionized our understanding of much of the tractate of *Hulin*, especially the commandment to perform *sh'hitah* before eating non-sacrificial meat (*hulin*). The commandment is not stated until Deuteronomy 12:20-21 just before entry into the Promised Land. This raises the question how the Israelites had eaten meat during the forty years in the desert. Rashi and the other classical commentators, following the opinion of R. Ishmael recorded in *Hulin* 16b-17a, assert that the consumption of *hulin* had been prohibited until Deuteronomy 12:20-21 lifted the prohibition. The problem is that R. Akiva maintains that *hulin* had been permitted without *sh'hitah* until entry into Canaan, and the halakhah (as codified by Rambam in *Hilkhot Sh'hitah* 4:17) accords with the opinion of R. Akiva. R. Akiva's opinion and interpretation of the verses seem incomprehensible, which is why the commentators all adopt R. Ishmael's explanation of the verses. These fundamental difficulties remained unresolved until explained by R. Moshe Shmuel in the *Dor Revi'i*.

Apart from its substantive contributions, the *Dor Rev'i* is also noteworthy for its method of analysis. Indeed, R. Moshe Shmuel stated (*Dor Rev'i hakdamah* 5b) that his primary aim was to teach how "to search and investigate and examine the holy words of the sages to find the truth and to understand the depth of their opinion and their wisdom." The textual derivations on which conflicting opinions in the Talmud rest were not arbitrary inferences (*Dor Rev'i p'tiha* 8a, 11c, 15b), but were entailed by a logic that can be discovered through a rigorous analysis of the *sugya*.

R. Moshe Shmuel particularly stressed the cardinal importance of carefully reading the text of the Rambam, because the Rambam's interpretation of a *sugya* often differed from that of Rashi or the *Tosafot*. Assuming that the Rambam must have interpreted a *sugya* as Rashi and the *Tosafot* had, later commentators often questioned his codifications in the *Mishneh Torah*. But once we uncover the alternative way to interpret the *sugya*, the Rambam's codifications follow necessarily. Apparent contradictions in his codifications occasioned elaborate attempts at reconciliation by the later *Aharonim*. Such attempts, R. Moshe Shmuel argued, were misplaced, because the supposed inconsistencies arise from the false assumption that the Rambam interpreted the *sugyot* in question as did the other *Rishonim* ("ki mei-ikara ein hathalah l-shum kushia ki p'sak ha-rambam b-dina v-ta'amah haluk mi-p'sak yeter ha-rishonim").

This search for the principles underlying the halakhic opinions of the Talmudic authorities and for the Rambam's interpretation of the *sugya* bring to mind the approach of Rabbi Haim Soloveitchik. The affinity between their methods of Talmudic analysis may account for the high regard in which his Lithuanian contemporaries, who often viewed their Hungarian brethren with some condescension, held R. Moshe Shmuel. It also explains the sensation that the *Dor Rev'i* created when it reached the Lithuanian yeshivot in the late 1920s and early 1930s, producing astonishment that a Hungarian rabbi could independently have formulated a method of Talmudic analysis so similar to R. Haim's.

III

While the scholarly reputation of the *Dor Rev'i* is unchallenged, the *hakdamah* was and remains controversial because it presents a view of the purpose and historical development of the Oral Law, which, though based entirely on Talmudic and rabbinic sources, seems unconventional. In the *hakdamah*, parts of

which are already familiar to readers of *Tradition*,^[14] R. Moshe Shmuel addressed the question of why the Almighty found it necessary to divide the Torah into a Written and an Oral part. His novel contention was that the purpose of the Oral Law was to allow the judges and sages of each generation to adapt the halakhah to contemporary circumstances. This adaptability was sanctioned by the Written Law (Deuteronomy 17:9-12), which gave the judges of each generation unlimited discretion to overturn the halakhic decisions of earlier judges (Rambam, *Hilkhhot Mamrim* 2:1).

It was to preserve this adaptability that writing down the Oral Law had originally been forbidden. As long as it was transmitted only by word of mouth, no single version of the Oral Law was authoritative. To be sure, a decision of the Sanhedrin was binding. But the Sanhedrin itself was not constrained by the textual interpretations or halakhic decisions of its predecessors. The principle of *stare decisis* could not constrain the Sanhedrin, because the Torah gave absolute authority to the "judge that will be those days." A written text of the Oral Law, necessarily embodying a particular set of interpretations of the Written Law, would have greatly narrowed the power of the Sanhedrin to reinterpret the Written Law.

The historical development of the Oral Law reflected an evolving relationship between God and His people directed toward the spiritual development of the world, just as mankind in general had become partners in its physical development. Not until redaction of the Mishnah, the basic text of the Oral Law, did the Sages forego the right to dispute the halakhic opinions of their predecessors. Acceptance of such an authoritative interpretation negated the whole rationale for a separate Oral Law. Only considered in this light, does the apocalyptic Talmudic characterization ("*eit la'asot la-Hashem, heifeiru toratekha*") of the redaction of the Mishnah become comprehensible.^[15]

This view of the purpose of the Oral Law might seem to be at odds with the conventional Orthodox account which stresses the Divine origin of the Oral Law and the role of *masorah* in its transmission while slighting its evolutionary character. To critics, R. Moshe Shmuel seemed to be sanctioning the heretical views of *Wissenschaft des Judentum* and its American offspring, Conservative Judaism. But R. Moshe Shmuel's commitment to halakha was absolute, and his conclusions, unlike those of the *Wissenschaft des Judentum*, rested exclusively on Talmudic and rabbinic sources.

Although R. Moshe Shmuel emphasizes more strongly than did Rambam the unlimited authority of judges to interpret the Oral Law, his position, in substance, differs little from Rambam's. Rambam maintains

that some Biblical interpretations, for example, that the verse "an eye for an eye, a tooth for a tooth" refers to monetary compensation, were never disputed. While not asserting that the contrary was necessarily true, R. Moshe Shmuel challenges the Rambam's assertion (at least as regards this verse) as unsupported.

Rambam infers that the traditional interpretation was transmitted from Sinai from the absence of any contrary interpretation in the Talmud.^[16] But R. Moshe Shmuel cites Talmudic disputes about several aspects of the interpretation. If an uncorrupted oral transmission from Sinai required that "an eye for an eye" always be interpreted as monetary compensation, how could a dispute about any part or any element of the interpretation of that verse ever have arisen?

Using his conception of an adaptable and evolving Oral Law, R. Moshe Shmuel offered a remarkable explanation of the famous Midrashic account of how, before the Revelation at Sinai, the descendants of Esau, Ishmael, and Amon were offered the Torah, but refused to accept it when they were told that it contained prohibitions on murder, theft and adultery.

R. Moshe Shmuel raised two questions. First, the blessing recited over the Torah says that God chose us from all the nations, but according to the Midrash, God did not choose us. The nations rejected Him. Second, why did the descendants of Esau, Ishmael, and Amon refuse the Torah? The commandments not to murder, steal, and commit adultery were already incumbent on them under the Noahide Laws.

R. Moshe Shmuel explained the Midrash as follows. When offering the Torah to the descendants of Esau, Ishmael, and Amon, God spoke to their sages, explaining that they would receive both a Written and an Oral Law. Upon learning that the Torah consisted of both a Written Law and an Oral Law whose content they could change by reinterpreting the Written Law, their sages realized that the national characters of their peoples precluded accepting the Torah. With complete freedom to interpret the Written Law, they would ultimately infuse their national vices into their interpretations. Anticipating that the spirit of the Law would be perverted even if its letter were preserved, they properly refused God's offer. Nor is the blessing over the Torah inconsistent with the Midrash, because only after determining that the Jewish people alone could safely be entrusted with absolute control over the Oral Law did God give us the Torah.

Although the *hakdamah* to the *Dor Rev'i* does not refer explicitly to Zionism, the link between R. Moshe Shmuel's Zionism and his view of the centrality of the Oral Law in Jewish life is clearly discernable in it. R. Moshe Shmuel believed that the Oral Law was supposed to develop along with the Jewish people as they, guided by their sages, strove ever to improve and perfect their personal and national characters.

For it is true that it was the will of the blessed Commander to divide the Torah into two -- written and oral -- so that the spirit of each generation would achieve realization by understanding the holy Torah and its commandments. But only the spirit of the nation and its sages when dwelling on its land, and living a full national life, secure in its independence from every direction, with no admixture of the spirit of the nations of the world. For, only when the holiness of the Jewish nation could develop securely in its own land was the Torah given over to be explained and interpreted according to the understanding of the contemporary judges whose judgments were to be followed even if they said "right is left" or "left is right," but not when the nation is scattered among the other nations and its sages oppressed by the yoke of physical and spiritual exile, when all the influences of the nations of the world are buffeting them and destroying the holy spirit within them. This is why the sages said that anyone dwelling outside Israel is like one without God.

The process of spiritual development was tragically cut short, when R. Judah ha-Nasi, foreseeing that a diaspora of indefinite length would cause the Oral Law to be forgotten unless it were redacted and preserved in writing, overrode the prohibition against writing down the Oral Law. Fully aware that he was negating the purpose of the Oral Law, he chose to do so rather than allow it to be forgotten completely.

But the cost was high. Against those who infer from the ancient adaptability of the Oral Law that it could be equally adaptable and flexible now, R. Moshe Shmuel explained that redaction of the Talmud had drastically curtailed the opportunity for further adaptation and development of the Oral Law. No halakhic issue settled in the Talmud, whether permissively or proscriptively, was open for reconsideration.^[17]

Because the Diaspora not only precluded observing commandments conditional on dwelling in the Land of Israel or on the existence of the Temple, but robbed the Torah of one of its essential qualities, R. Moshe Shmuel saw in Zionism the means for restoring that quality. Moreover, nearly two thousand years of exile had damaged the national character of the Jewish people and impeded their spiritual and intellectual development. Jewish renewal could occur only by returning to the Jewish homeland and rebuilding Jewish national institutions.

R. Moshe Shmuel regarded Orthodox opposition to Zionism as a disastrous failure to join in the holy task of reawakening the Jewish national spirit, a failure that could not thwart Zionism, only offend secular Zionists and alienate them further from the Torah. Unflinching in his assessment of his own community, he

recognized that Orthodox hostility to Zionism stemmed from unspoken doubts about their ability to maintain the loyalty of their youth once study in the *Beit Midrash* was no longer the only uniquely Jewish vocation.

Notwithstanding his utter devotion to Torah study, R. Moshe Shmuel recognized the artificiality of a communal life centered exclusively on the *Beit Midrash*. In a more natural and more healthy environment people would be able to choose ordinary occupations without feeling that they were compromising their Jewishness. In the Diaspora, a specifically Jewish life could be led only in the *Beit Midrash*. In Israel, however, any Jew working productively would contribute to the economic and social progress of the Jewish people and would therefore command no less esteem than the Torah scholar. "Work in the Land of Israel," wrote R. Moshe Shmuel,

ennobles and refines, because it raises the level of prosperity of the people and advances the development of the homeland . . . [T]he commandment to engage in such work is comparable to the commandment to pray and study Torah in the Diaspora. This idea is expressed forcefully in Midrash Rabbah^[18] (*parashat ki tavo*). "When Moses saw that the Holy Temple would be destroyed, and the *bikurim* would be canceled, he rose and enacted three daily prayers for the Jewish people." Besides the religious meaning of the commandment of *bikurim*, there was an added purpose: to spur the people working their land to more intensive and more exquisite care of their tillage. This care was like a religious vow. The Mishnah in *Bikurim* (3:4-5) tells us with what ceremony of crowds and musical accompaniment the *bikurim* were brought up to Jerusalem. All the artisans before whom the carriers of the *bikurim* passed, stood up and ceased working as a sign of respect for the carriers of the *bikurim*, even though they were not obligated to stand for a Torah scholar. To such an extent was agricultural work venerated! The recognition of the simple farmer, whose diligent care for his land serves not only himself and his family, but the whole nation, uplifts and refines his Jewish recognition and character so greatly that he did not have to attend the house of worship except on the Sabbath and on Holy Days. But when Moses saw . . . the image of the Jew in the Diaspora, who would have only the selfish goal of his personal welfare before his eyes, and, separated from his land and unsure of his livelihood, would have no thought but to profit at others' expense, Moses had to provide him with a moral safeguard. So he sent him three times a day to the house of prayer in order that he not be immersed in mundane selfish work (*Ha-Tsionut b-Or ha-Emunah*, 71-72).

Only an elite group is intellectually and temperamentally equipped for advanced Talmud study. Encouraging those unequipped for such study to pursue it as a full-time occupation is damaging psychologically, socially, and religiously. Making Talmud study the only Jewishly acceptable vocation neither benefits those more suited for other vocations, serves the Jewish community at large, nor, least of all, promotes the education of true *talmidei hakhamim*.

Zionism offered a new, previously unimagined, alternative to the religious way of life -- an alternative

involving neither assimilation nor rejection of Jewish identity or religious commitment -- that had developed in Eastern Europe. R. Moshe Shmuel did not consider that way of life to be, in every respect, the ideal for religious Jews. And he expected new religious institutions, superior to the European ones, to grow in Israel. But perceiving that Zionism threatened the old way of life and the old institutions, the Orthodox leadership opposed Zionism rather than come to terms with it and try to guide it toward increased faith and observance.

Moreover, even if Zionism did threaten the religious commitment of future generations, that threat could not justify denying the Jewish people their homeland. A similar issue arose when Jews were emancipated after the French Revolution. Some rabbis opposed emancipation, fearing that new opportunities would weaken religious observance. But that response was wrong, R. Moshe Shmuel argued, for

even if we should know that emancipation contained within it definite dangers for complete faith, this conclusion could not serve as a reason to deny, or even postpone, the granting of natural rights to the nation . . . The Holy One Blessed Be He does not demand of a man not to be a man, and He does not demand of him, in anticipation of dangers that are liable to weaken the completeness of his faith, that he suppress his ambition for success. . . .

If it is so for individuals, why would the Holy One Blessed Be He demand of a whole nation such a denial, which would be like deliberate self-destruction? Even if our holy Torah demands of us not to deviate from its ways, either as the result of the persecution or the enticement of the gentiles, and even if it demands of us to give over everything dear to us, even our lives, to uphold the Torah -- it would not demand what is unnatural: to forego, out of fear of ourselves, the rights and advantages that we could otherwise attain. The first demand is human and natural; the second is inhuman and unnatural. (*Ha-Tsionut b-Or ha-Emunah*, 74-75)

V

Perhaps the most striking characteristic of R. Moshe Shmuel's religious and philosophical outlook is his rationalism. He had, of course, no sympathy for the rationalism of the European Enlightenment that rejects any law, custom, or tradition that cannot be deduced from supposedly rational principles, and was the inspiration for Reform Judaism. His was the modest sort that prefers the simple to the complicated, the logical to the illogical, the clear to the obscure, the coherent to the confused, the plausible to the implausible, the real to the imaginary, the common-sensical to the paradoxical, and the humble admission of fallibility to the arrogant claim of infallibility. His was a rationalism that did not exempt even the unchallenged authority of Revelation and tradition and faith from analysis and that would accept no reply to

a reasoned argument but a reasoned counterargument. R. Moshe Shmuel summarized his outlook in the *Hakdamah* to the *Dor Rev'i*:

The reader of this work should not suspect that I would imagine that in every place that I have criticized rabbis who came before us, I have discerned the truth, for such a haughty spirit would be incomparably ignorant. . . . [I]t would contradict my approach completely, for whatever I have dared to achieve is built on the principle that every person . . . is liable to err. . . . [Others] will find many mistakes that I have made, because man is misled by his own words and ideas. I, too, could not be secure from the snare of error that lies beneath the feet of all men. But this is the way of the Torah: one builds and another comes after and examines his words and removes the chaff from the wheat in order to find truth, which is beloved above all (*Hakdamah* 5a-b).

This attitude prompted R. Moshe Shmuel's criticism of the *pilpulistic* approach to Talmud study, which employed artificial distinctions and convoluted arguments to reconcile contradictory texts. Similarly, in the introduction to his monograph *Or Bahir*, he rejected halakhic arguments based on esoteric sources (*nistar*) or claims of divine inspiration (*ruach ha-kodesh*), precisely because such arguments are beyond critical analysis. Replying to criticism for having rejected the divinely inspired opinion of the *Divrei Haim*, which, as it was based on *esoteric* sources, was beyond criticism, R. Moshe Shmuel insisted that halakhah rests exclusively on sources and reasoning that are open for examination (*niglah*). Far from overriding rational arguments, esoteric proofs carry no halakhic weight.

His belief that rational principles are as authoritative as the Torah itself led R. Moshe Shmuel to argue that universal principles of good and bad and right and wrong can override even an explicit prohibition of the Torah. For example, while there are *d-oraita* prohibitions against wearing a garment made of *shatnez* and against wearing a garment designed for the opposite sex, R. Moshe Shmuel insisted (*p'tihah* 26b) that transgressing those prohibitions is preferable to appearing naked in public (which would violate no *d-oraita* prohibition) if one had no other garments with which to clothe himself. Similarly, eating human flesh, though not explicitly prohibited, is worse than eating *n'veilah* or *treifah*. "Whatever is disgusting in the eyes of mankind," R. Moshe Shmuel concluded,

even if it has not been specifically forbidden by the Torah, is prohibited to us even more than are explicit prohibitions in the Torah. And this is not only because of *hilul ha-Shem* . . . , but because whatever is prohibited to the Noahides cannot be permissible to us because of the principle "Is there something [which is prohibited to them but not to us]" (*Sanhedrin* 59a). Thus, for a dangerously sick person, the consumption of human flesh or spoiled *n'veilah* is certainly a more serious offense than the consumption of *heilev* or *tevel*. The statement in *Yoma* 83a that it is preferable to feed *n'veilah* than to feed *tevel* to a dangerously sick person must be referring to *n'veilah* through an improper *sh'hitah*, but not to *n'veilah* from natural causes, the consumption of which is prohibited by the

general laws of morality and decency. Moreover, it is well known that the flesh of an animal that died of natural causes is dangerous, so how could one imagine that the sages would have commanded to give to a sick person meat that is spoiled and fit for dogs rather than *tevel* that was not prepared. And anyone who denies this diminishes the honor of the Torah and causes it to be said of us "a foolish and depraved nation" instead of "a wise and understanding nation" (*p'tihah 26b*).

R. Moshe Shmuel's rationalism found eloquent expression in his love of justice and compassion for the poor and unfortunate. For example, when discussing (*p'tihah 25b*) the principle that the Torah excuses transgressions committed under duress (*anas rahmana patrei*), R. Moshe Shmuel asks why a threat of monetary loss should not excuse the transgression of a negative commandment. Although Ran, Rashba, and Ravad maintain that one must sacrifice all one's possessions rather than commit such a transgression, their opinion is contradicted by a *beraita* recorded in *Berachot 61* and *Pesahim 25*:

If it says "with all thy soul" why does it say "with all thy might" and if it says "with all thy might" why does it say "with all thy soul"? It must be that if there is a man whose body is more precious to him than his wealth it says "with all thy soul" and if there is one whose wealth is more precious to him than his body it says "with all thy might." (*p'tihah 25b-26a*)

But the obligation to accept death rather than transgress a negative commandment applies only to idolatry, bloodshed, and forbidden relationships. So the obligation to sacrifice one's wealth rather than transgress a negative commandment should apply only to those three commandments. How can the obligation be extended to all negative commandments?

However, R. Moshe Shmuel concedes that the opinion of Ran seems to be supported by a Mishnah in *Shabbat* that states that one may not extinguish a fire on the Sabbath to prevent a house from burning down or even take possessions from the house into a public domain. Although Rema allows putting the fire out where Jews live among gentiles, this is only to prevent Jews from being blamed, and their lives threatened, for letting the fire burn. "Should we merit to return to the land of our fathers," R. Moshe Shmuel concluded, we should be forbidden to put out a fire that started in a city and should have to watch . . . as the entire city burned down. And even though a poor person is considered as dead, and the Torah said "and you shall live by them," we could not lift the prohibition against putting out a fire to save a person's house and wealth or even an entire city. This is a great wonder in my eyes, and it contradicts that which the Torah has said that "with all your might" refers only to idol worship. This means that the Torah equates one's life to one's wealth, so that whenever one is not obligated to be killed rather than transgress a commandment one is not obligated to sacrifice his wealth either. (*p'tihah 26a*)

After rejecting the opinion of Ribash that monetary loss cannot excuse the transgression of a

negative commandment, R. Moshe Shmuel concludes as follows:

This matter requires great contemplation (*tsarich iyun gadol*). And I have only come to object that it is difficult to say that a man is obligated to become destitute . . . rather than save what he owns by transgressing a negative prohibition . . . Constant poverty for all one's days, which is an unending torment, is much harsher than taking a life. I therefore say that the principle that monetary compulsion is not true compulsion (*ones mamon lav ones hu*) is not a general principle. Certainly if a healthy and strong person with a job to support himself and his family, lost all his wealth, he would suffer only the pain of losing money, which would not be a matter of life or death. However, if a weak or sick person, whose livelihood depended on his property and possessions, lost his possessions, it would destroy his life, because he could no longer support himself and his family except from charity and casting himself upon the public. In this case, his wealth is, by law, more precious to him than his life, because for him death is better than the pain of poverty. And even though this distinction is not mentioned in the *poskim*, nevertheless "its ways are the ways of pleasantness" (Id.).

R. Moshe Shmuel could not accept that the halakhah required one to endure unending misery. And if there was a reasoned argument to support his opinion R. Moshe Shmuel would make it, whatever might be said about him. "For I have suffered much abuse in my life," wrote R. Moshe Shmuel,

but, thank God, no one ever found in me or in my household any evil. They rose up to pursue me only because they did not like my way of learning and it was difficult for them to hear my reasoning that impartially searched for knowledge. Many therefore joined against me to pursue me without cause. And, in the face of every attack, I bowed my head. I was always among those who hear abuse but do not respond. In my approach to learning, however, I stood like a tower of iron, and I did not forsake it because of their outcries. On the contrary, I found in it the life of my soul, rest and sanctuary for all my troubles. And thank God, I did not labor for naught, as everyone who justly considers this work will see . . . So I must give thanks to those who reviled me, for it was because of their opposition that I labored and struggled to uphold my arguments with lucid proofs (*Hakdamah* 5a).

VI

The values for which R. Moshe Shmuel stood and for which he suffered, truth, reasonableness, justice, tolerance, and humanity, are under attack from varied sources today just as they were in his time. A fearless heart and an unshakeable faith in both the truth of the Torah and its accessibility to rational inquiry combined with an unstinting, but clear-eyed, love of the Jewish people led this quintessential halakhic man to defy the prevailing anti-Zionist religious orthodoxy of his time for the sake of a larger, more just, and more humane vision of what the Jewish people could aspire to and what they might achieve. Despite all that has happened since, his hope, and ours, is still not lost.

NOTES

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[1]. This scene has been described to me many times by my father who, as a boy of six, witnessed it from the train that took R. Moshe Shmuel on the first leg of his journey to Palestine.

[2]. See Introduction by Rabbi Yekutiel Klein to *Sh'eilot u-T'shuvot Dor Rev'i*, vol. 2, quoting R. Haim Ozer on R. Moshe Shmuel's unsurpassed mastery of the Rambam.

[3]. Oral communication to me from the late Rabbi Abraham Klein about the tribute R. Meir Simcha paid to R. Moshe Shmuel upon meeting Rabbi Klein's father, Rabbi Shlomo Menachem Klein, R. Moshe Shmuel's son-in-law. Rabbi Aaron Paperman of the Telshe Yeshiva, who was a student in Telz in the early 1930s, has also told me of the extraordinary impression that the *Dor Rev'i* made when it reached Telz. See also the letter of R. Moshe Feinstein to R. Abraham Klein published in *Sh'eilot u'T'shuvot Dor Rev'i*.

[4]. R. Moshe Shmuel realized that his strong language sometimes gave offense, but he felt compelled to disagree emphatically with opinions or arguments that could not be rationally defended. See R. Moshe Shmuel's introduction to his pamphlet, *Or Bahir*, (Sighet, 1908) which reproduces his letter to an unnamed rabbi who questioned his strong criticisms of the *Divrei Haim's* [R. Haim Halberstam of Zanz] stringent opinions on the laws of *mikvaot*. See also below note 8 and p. 16.

But with all the honor and homage that I feel in my soul for the glory of [the *Divrei Haim's*] greatness, I do not find it any way belittling or dishonoring to write that one of his rulings . . . was erroneous if the truth . . . forces me to do so . . . This was the practice of the *Rishonim* and many of the greatest *Aharonim*, who, concerned only about the truth, annihilated and demolished . . . the words of others without pity and without asking pardon . . . So we find many times in the Talmud and the *Rishonim* astonishing things, as Abaye said about R. Avin, *Pesachim* 70b, and the like. Who can count the similar expressions in the Ra'abad's glosses on the Rambam and the Rashba's in the *Mishmeret Habayit* against the *Bodek Habayit* of the Ra'oh, and the Ramban against R. Zerachiah

Halevi? . . . And should you say that in this late generation, they have veered from this path and speak with greater humility . . . do you really believe that we are more humble and more civil than our forefathers and teachers . . . ? Heaven forbid. The only reason for this is that in our generation the truth has been debased and that no one cares for it as in earlier generations. On this account, flattery has been magnified, and the poisoned fruit has ripened to speak one way and to think another. So the land has become full of flattery with various exaggerated descriptions that terrify the ear that hears and the eye that reads.”

[5]. *Der Zionismus und Zeine Nebenerscheinungen im Licht der Religion*, (Klausenburg: 1920). Edited and translated into Hebrew by Naftali Ben Menachem with the Hebrew title *Ha-Tsionut b-Or Ha-Emunah*, Jerusalem: Mosad Harav Kook, 5721.

[6]. Originally published in *Yishuv Mishpat* (Klausenburg, 5682/1922).

[7]. Separation of the communities was allowed by the Imperial government in 1869, at the behest of the leading Hungarian Orthodox rabbis, after the non-Orthodox faction took control of the official religious institutions in many cities and suppressed Orthodox practices in the name of reform.

[8]. My father, Rabbi Juda Glasner, has told me that, as a token of appreciation, one of these *rebbe*s gave R. Moshe Shmuel a *shtreimel*, which he used to wear at home on the Sabbath and holidays. He wore the *shtreimel* publicly only once -- when accompanying a dangerously sick person to the hospital in an ambulance on the Sabbath.

[9]. On one occasion, the speaker declared the ritual bath, whose construction R. Moshe Shmuel had overseen, to be halakhically invalid. R. Moshe Shmuel, who had followed the opinion of the *Hatam Sofer* in designing the ritual bath, walked out in protest. To defend the opinion of the *Hatam Sofer* against that of the *Divrei Haim* (on the basis of whose authority the ritual bath was challenged), R. Moshe Shmuel published his monograph *Ohr Bahir*.

[10]. A number of the *rebbe*s who had settled in Klausenburg remained loyal to R. Moshe Shmuel. In a show of support, they wrote an open letter opposing any split in the Orthodox community.

[11]. Rabbi Teitlebaum issued a declaration invalidating any legal action, halakhic decision, or *sh'hitah* carried out by the official *beit din* of Klausenburg presided over by R. Moshe Shmuel and later by R. Akiva.

Even after his nephew, Rabbi Yekutiel Yehuda Halberstam succeeded him as leader of the Klausenburg Hasidim, Rabbi Teitlebaum continued his personal onslaught against R. Akiva, even rebuffing R. Akiva's entreaty for reconciliation when they were both prisoners at the Bergen-Belsen concentration camp. See Rabbi A. A. Y. Miller, *Olamo Shel Abba* (Jerusalem: Hod, 5744) p. 336. Ironically, years later, after leaving Brooklyn to establish a settlement in Israel, Rabbi Halberstam was subjected to a similar campaign of vilification by his uncle.

[12]. Tsivia survived her husband by almost ten years. My father recalls that during the *shiva* for Tsivia, R. Akiva recounted how before embarking for Palestine, R. Moshe Shmuel had been advised by numerous doctors that, because of ill health, Tsivia might not survive the journey to Palestine or the living conditions that she would find there. R. Moshe Shmuel rejected such advice, insisting that it was inconceivable that fulfilling the commandment of *yishuv erez yisrael* could be damaging to anyone's health.

[13]. Y. L. H. Fishman, "*Toldot ha-Mizrahi v-hitpathuto.*" In *Sefer ha-Mizrahi*, edited by Y. L. H. Fishman, 5-381. Jerusalem: Mosad Harav Kook, 5706 (1946).

[14]. Yaakov Elman (trans.), "*From the Pages of Tradition: Rabbi Moses Samuel Glasner: The Oral Law,*" *Tradition*, 25:3, Spring 1991, pp.63-69.

[15]. R. Moshe Shmuel explains that this creation of an authoritative text that answers the question of the *Keseph Mishnah* (*Hilkhos Mamrim* 2:1) about the basis for the authoritativeness of *tannaitic* in relation to *amoraitic* sources.

[16]. Even if the monetary interpretation of the verse was divinely transmitted to Moses, since the interpretation could be derived from hermetic principles, it is not clear that, under the principles of *lo bashamayim hi* and *lo tasur*, a later court could not have overridden that interpretation.

[17]. For example, the Talmud in *Shabbat* 107b rules that it is permissible to kill maggots despite a general prohibition against killing living creatures on the Sabbath, because the Talmud presumed that maggots are spontaneously generated and not conceived through a procreative act. Even though this presumption is now known to be false, it remains permissible to do so, for once the law has been decided, rightly or wrongly, in

the Talmud, it cannot be changed (*hakdamah* 4a-b).

[\[18\]](#). Actually *Midrash Tanhuma*. See *Ha-Tsionut b-Or ha-Emunah*, p. 72, note 12.