HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

187 - TORAH MIN HASHAMAYIM
OU ISRAEL CENTER - FALL 2020

A] THE PRINCIPLE OF TORAH MIN HASHAMAYIM

1. The Mishna rules that all Jews have a place in the World to Come other than a small group of heretics. These include someone who claims that Torah is not from Heaven.

The Gemara explains that this is learnt from the verse which talks of someone who scorns the word of God. This includes someone who claims that all of the Torah is from Heaven other than one verse that Moshe made up by himself. This also applied to the Received Tradition of the Oral Law.

2. The Eighth Ikar - Torah Min Hashamayim - comprises a number of key points:-

• The entire Torah 'which we have in our hands today' was communicated to Moshe who acted as a 'scribe', faithfully recording that Torah.

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The precise mode of communication from God is beyond our understanding - we call it ‘speech’ but it was not really.

Every verse in the Torah is equal in Divine origin, whether halachic or narrative in nature. This is opposed to what others (specifically King Menashe) suggested - that there are central and peripheral aspects to the text and that the narrative is less ‘authoritative’.

Someone who says that any part of the Torah is not Divine, but rather that Moshe added it, is a heretic.

So too, the ‘Received Explanation’ of the Torah is of Divine origin.

The Rambam codifies in halacha that it is not only heresy to deny that a verse was made up by Moshe, but even a WORD was made up by Moshe.

Rav Moshe Feinstein explains that it is heretical to claim that even a LETTER of the Torah was not given by God. He is also clear that this also includes any later nevua to a prophet. No prophet has the ability to change the Torah itself.

B] THE UNIQUE PROPHECY OF MOSHE RABBEINU

This position is based firmly on the 13 Ikarim of the Rambam, in particular Ikar 7, that the prophecy of Moshe was FUNDAMENTALLY different to that of every other Navi. In fact, the word nevua means something completely different in each case. Moshe was ‘on-line’ to God 24/7 and had a clarity of perception (aspaklaria meira) which no earlier or later prophet had. As such, according to the Rambam a Navi other than Moshe is not permitted to make ANY halachic ruling based on his or her prophecy, but only based on learning and analysis.

The Rambam understands that if a Navi ever decides any matter of Torah based on ‘regular’ nevua, they are a false prophet and must be killed!
Eliyahu HaNavi will come at the end of days, before Mashiach. But, according to the Rambam, he will not come to add or subtract anything in Torah, but to resolve conflict.

But, surely we have a tradition that Eliyahu will resolve halachic issues! Teiku - the expression used by the Gemara to indicate that the matter cannot be resolved - is often taken as an acronym for 'the Tishbi will come to answer all questions and difficulties'.

Questions of fact - such ownership of lost property - CAN be resolved by Eliyahu using prophecy.

Chazal are careful to word this with a reference to Eliyahu - as a prophet - and NOT as the Tishbi!

C] IBN EZRA AND THE ‘SECRET OF THE 12’

We saw in the previous shiur that the Ibn Ezra clearly takes the view that the last 12 pesukim in the Torah were written by Yehoshua, essentially following the position of R. Yehuda in the Gemara.

We also saw that Rambam, Ramban and most opinions in the Rishonim and Acharonim follow the other view - of R. Shimon and R. Meir - that ALL of the Torah was written by Moshe.

The Ibn Ezra however goes further and hints the these 12 pesukim carry a deeper secret.

(In)famously, the Ibn Ezra teases us with his ‘Secret of the 12’, suggesting that verses could have been added to the Chumash by later Nevi'im. This position was rejected by most Rishonim, and almost all Acharonim. The Rambam would certainly have considered it to be heretical (see below), and this is also the position of many authorities today.

4. This halacha is ruled in a number of places in Shulchan Aruch - eg CM 262:4 - and there a situations in which one must hold something in a safe place until Eliyahu comes! The poskim discuss how to achieve this in practice.

5. The issue of post-Mosaic authorship of any part of Chumash has been discussed in many places of the last 30 years. One of the first rounds in the recent debate was a 1993 article by Marc Shapiro in the Torah U’Madda Journal Vol 4 p187 - The Last Word in Jewish Theology? Maimonides 13 Principles. Prof Shapiro subsequently expanded this into a book - The Limit Of Orthodox Theology, (Littman 2004). The book caused significant controversy! More recently, Rav Amnon Bazak covered this in more depth in his book Ad HaYom HaZeh, published in 2020 by Maggid in English translation as a To This Very Day. As such, although these issues are certainly controversial, the discussion on them is now widespread and it is important to understand the parameters of the debate. Unsubstantiable claims are often made by less reliable authors (we will see Spinoza below) as to the acceptable boundaries on this issues within classic Jewish thought. It is, in my view at least, important to understand the actual sources in depth in order to be able to respond to those making spurious claims. There is indeed a line beyond which a position is apikorsus and Chazal instruct us in Avot (2:14) 'da mashetashiv l’apikorus'!. To draw that line too conversatively with the aim of protecting people from serious error is understandable, and may have been appropriate in previous generations. But it is no longer tenable given the information widely available to all - online and in print. It can also be counterproductive - leading to accusations of dishonesty and lack of full disclosure, which sow unwarranted seeds of doubt in other areas too.

6. We saw that there are a number of sources in Chazal that state this positions, although R. Shimon and R. Meir argue strongly with it.

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The Ibn Ezra hints that he is open to the possibility of narrative verses being added to the Torah later through prophecy.

- We saw in the previous shiur that the Ibn Ezra is vehemently opposed to the idea that later pesukim could have been added to the Torah other than through prophecy.
- The Ibn Ezra is very elliptical in his description of the 'secret'. Can we be sure what he actually means?

One of the classic commentators on Ibn Ezra is the Tzafnat Pa’aneach. He clearly understands that the Ibn Ezra accepts the addition of pesukim in the Torah later than Moshe, as long as they are through prophecy. Since prophecy comes from God, why would we doubt its truth?

This is also the understanding of R. Moshe Almosino.

The Ibn Ezra was famously misrepresented by Spinoza in his Theologico-Political, Treatise 2:8. Spinoza argued that the Ibn Ezra does not accept Mosaic authorship for any of the Torah.

1. In his comments on Bereishit 36:31 and his attack on the Karaite commentator Yitzchaki (usually identified as Yitzchak ben Yashush of Toledo (982-1057).
2. R. Yosef b. Eliezer HaSefaradi, 14 Century Spain. The author is commonly identified as R. Yosef Bonfils (Tov Elem) of the same period. This seems to be a mistake. See M. Wilansky, Mechkarim VeSifrut (Jerusalem, 1978) 344-48.
3. 16th Century Turkey. See Chapter 7 of Prof Marc Shapiro’s The Limits of Orthodox Theology, Littman (2004). Shapiro cites a long list of classic mefarshim who understand the Ibn Ezra in this way and he has updated that list in many subsequent posts on the The Seforim Blog. He now lists over 35 different commentators who all understand that Ibn Ezra’s ‘secret’ was the existence of a number of post-Mosaic additions to the Torah through prophecy. It should be noted that many of these commentators disagree with the Ibn Ezra’s opinion on this, but the point is that they interpret him in this way.

7. Ashkenazi commentators also understood this to be the position of the Ibn Ezra. This is confirmed here in a commentary of the Ba’alei HaTosafot, who quote the Ibn Ezra in this vein, but disagree with his position. They do NOT however accuse him of heresy.

8. Of course, Spinoza became one of the starting points for the modern academic study of Higher Biblical Criticism. This shiur is not the forum for an in-depth analysis of this issue. Those interested in further reading on this, and its broader implications for orthodox responses to academic Biblical Criticism should see Rabbi Bazak’s sefer To This Very Day, in particular Chapter 2, and also:
   - The Challenge of Biblical Criticism, R. Menachem Leitbag:
   - Orthodox Responses to Biblical Criticism, Rabbi Shnayer (Sid) Leiman, on YU Torah
   - Why Jews Should Continue to Ignore the Bible Critics, R. Francis Nataf - https://www.youtube.com/watch?v=uXhnJsv41zg
   - Is Modern Biblical Scholarship A Danger to Traditional Belief? (6 Parts)

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D] IS THE IBN EZRA A LONE VOICE - POSITIONS OF OTHER RISHONIM

• It is clear from the way in which the Ibn Ezra presents the ‘secret of the 12’ that the idea of post-Mosaic authorship of any word of the Torah was considered extremely controversial at the time.

• Indeed, the Rambam unequivocally regards it as heretical and in breach of the 8th Ikar. Someone who espouses such a view would, according to the Rambam cease to be a bona fide member of the Jewish people and lose their place in Olam HaBa.

• This is the position of most Rishonim and the Ibn Ezra’s approach is clearly minority. But is it a da’at yachid?

D1] RAMBAN

The Jewish people were attacked in the desert by the King of Arad. They then took vows to destroy the cities of this marauding king, and ultimately fulfilled those vows.

The Ibn Ezra quotes views that this verse was written later by Yehoshua and refers to the King of Arad that he fought, but Ibn Ezra rejects that pshat and argues that these are two different places.

The Ramban suggests a number of different explanations for this episode. One indicates that it refers, presumably as a prophecy, to the destruction of those cities which the Jewish people achieved much later (in the book of Shoftim after the death of Yehoshua).

The Abarbanel assumes (in horror!) that the Ramban is taking the position of the Ibn Ezra and accepting post-Mosaic authorship of some verses in the Torah!

https://thinkjudaism.wordpress.com/2013/05/07/is-modern-biblical-scholarship-a-danger-to-traditional-belief-part-1 (Note that this comprises notes from a symposium on the topic, including Rav Leibtag and Prof. James Kugel. The notes taken by students and are not necessarily approved by the speakers.)

• 8 essays by Prof. Joshua Berman - www.torahmusings.com/2013/12/rethinking-orthodoxy-and-biblical-criticism-viii/


• Other recommended books on the issues include:
  - The Documentary Hypothesis, Cassuto, Caxmell Press (2005)
  - A Journey Through Torah, Ben Zion Katz, Urim (2012)
  - Faith Without Fear (Unresolved Issues in Modern Orthodox), Chap 4 - Rabbi Michael Harris, Valentine Mitchel (2016)

• It goes without saying that there are MANY books and websites which do not present these issues from an orthodox Jewish perspective. Care must be taken, even with writers and websites which claim to represent an authentic synergy between Torah and academic thought. Often they do not!

11. It is quite possible that the Ramban did not intend this at all, but was indicating that the verses were a prophecy of future events. But it is clear from the Abarbanel (i) that this was so.
The Torah refers to the kings who reigned in Se’ir before the first Jewish king. We saw in the previous shiur that the Ibn Ezra rails against those who claim that this verse was simply added in the time of Yehoshefat.

Although the standard edition of the Rashbam’s commentary is clear that this ‘Jewish king’ is a reference to Moshe, a manuscript¹² was found (and published by Isaac Lange - see below) which attributes to the Rashbam a comment that this verse was inserted into the Torah in the time of the Shoftim.

It is very difficult to know whether this is the actual comment of the Rashbam or was inserted later by a student.¹³

R. Yehuda HaChasid (Germany, 1150-1217) was an central figure in the Chassidei Ashkenaz - the Pietists of Medieval Germany - and author of the highly influential Sefer HaChasidim.

In the year 1975, Rabbi Yitzchak Lange of Switzerland published Perushei Hatorah L’R. Yehuda Hachasid from a manuscript. The work consists of explanations attributed to R. Yehuda Hachasid and collected and written down in decades subsequent to his death. It is a heterogeneous work, uneven in style and content and was not known or authenticated by scholars of subsequent generations.

The book quickly became highly controversial since it contains several explanations alleging post-Mosaic authorship.

The son of R. Yehuda HaChasid explains in the name of his father that Etzion Gaver fell into the hands of Edom only at a later date, and not at the time of the Chumash. These pesukim connect with those at the end of Vayishlach to explain how the different areas were transferred through royal marriages. Critically, he understands that the verses were inserted into the Chumash by the Anshei Kenesset HaGedola¹⁴ so that we would be able to understand the context.

clearly his understanding of the position of the Ibn Ezra; (ii) that it was possible to attribute this view (whether or not correctly) to someone of the stature of the Ramban.

¹². There is only one surviving manuscript page for Rashbam’s commentary to the beginning of Genesis. The used to be another manuscript that contained his commentary to the rest of the Torah but was missing the commentary to Genesis chapters 1-17. Unfortunately, this manuscript was lost during World War II. The Rashbam’s commentary was often controversial and the Ibn Ezra himself is sometimes highly critical of it. For a fascinating account as to whether the Rashbam’s commentary was censored by ArtScroll to remove a ‘difficult’ passage see the following posts by Prof Marc Shapiro: http://seforim.blogspot.com/2014/12/self-censorship-in-arukh-ha-shulhan.html, https://seforimblog.com/2015/01/artscrolls-response-and-my-comments/, https://seforimblog.com/2015/06/more-about-rashbam-on-genesis-chapter-1/ and a response by R. Ysrael Herczeg at http://www.hakirah.org/Vol26Herczeg.pdf For a shiur on the issue by Prof Martin Lockshin see https://youtu.be/gfRiMgJmyu4 and http://www.hatanakh.com/en/download/file/id/11320. See also his critical edition of the Rashbam’s commentary.

¹³. See “But it seems to me….. But I Say” Later Additions to Rashbam’s Torah Commentary, Jonathan Jacobs, Bar Ilan University - available at https://www.researchgate.net/publication/292451607_But_it_seems_to_me_but_I_say_later_additions_to_Rashbam’s_Torah_commentary

¹⁴. The Anshei Kenesset HaGedol included nevi’im, which is essential for the thesis of the Ibn Ezra.

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When Ya’akov gives berachot to Efraim and Menashe, the Torah states that ‘he placed Efraim before Menashe’. While most mefarshim understand that this refers to Yaakov placing the sons, R. Yehuda HaChasid is reported as explaining that it refers to Moshe giving precedence to Efraim over Menashe. He claims that it was written later by Yehoshua or, again, by the Anshei Kenesset Hagedola.

Perhaps the most striking example is the assertion that the Song At The Well in Bamidbar was originally included in the Chumash in the form of Hallel HaGadol - it was then removed from the Chumash by David HaMelech and represented as Tehillim 136!

• When Rabbi Lange sent the book for publication, the publisher was concerned at the inclusion of these passages and spoke to the Rav of Zurich, who referred the matter to Rabbi Moshe Feinstein for his opinion.

Rav Moshe is very clear. The book is a forgery, it is totally heresy and it should be destroyed. It should certainly NOT be printed!
At the end of the teshuva, R. Moshe writes that it was pointed out to him that some one of the controversial remarks in the manuscript is also quoted in the name of R. Yehuda HaChasid by another commentator - R. Menachem Tzioni. 

R. Moshe responded that this changed nothing, since the statement was still heresy! He assumes that the author must have copied this from one of the forged manuscripts in the name of R. Yehuda HaChasid. As such, R. Moshe argues that the Sefer Tzioni should also be condemned as heresy and he casts doubt on the reliability of the author.

Many contemporary commentators, following in R. Moshe's footsteps have questioned these alleged statements of R. Yehuda HaChasid. In particular, they do not appear to have much logical argument behind them, nor do they resolve any serious questions of pschat or structure. On that basis, and due to their departure from the mainstream position of the Rishonim on this issue, it has been argued that the the statements were intentionally inserted by a later student for a polemical purpose.

Nevertheless, other similar statements from the school of R. Yehuda HaChasid have subsequently been found and most Orthodox academics today accept the authenticity of the commentary. 

R. Menashe Klein - the Ungvare Rav - expresses shock that R. Moshe did not give proper weight to the Sefer Tzioni. He

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E] AN ASHKENAZI~SEFARDI MACHLOKET?

- Although this controversial position is often associated with the Ibn Ezra, it is clear that he did not feel he could express it explicitly. We also see that the Rambam takes a very hard line on the limits of acceptable theology in this area - one which is backed up by the later Sefardi poskim, such as the Abarbanel.
- By contrast, some Ashkenazi commentators, such as R. Yehuda HaNasi, seem far more prepared to express these views openly.
- Some see this as a Sefardi~Ashkenazi machloket, with the Sefardi community under far more pressure from Islam which accused the Jews of tachtif - altering Tanach for their own purposes. The Ashkenazim, in a Christian milieu, did not take such a position.  

35. One tanna had stated, simply and with no ado, that the last eight verses were of Divine origin but not of Mosaic authorship, and R. Yehudah he-Hasid added that there were several more verses that were not penned by Moses. Was such a position seen as being thoroughly mistaken? Most probably. Was it viewed as odd and non-conformist? Undoubtedly; though hardly more eccentric than R. Yehudah’s view that King David, to flesh out his book of Psalms, lifted from the text of the “original” Pentateuch many anonymous “psalms” that Moses had penned! Were these strange and misguided views, however, perceived as being in any way heretical or even dangerous? At that time and place, certainly not. They contained no concession to the surrounding culture, opened no Pandora’s Box of questions. Indeed, one can take the religious temperature of R. Yehudah he-Hasid’s explanation by the matter of fact way European medieval commentators (rishonim) treated the passages in Menahot and Bava Batra where the tannaitic dictum of Joshua’s authorship is brought. In their world, these words did not abut any slippery slope of a “documentary hypothesis” or of “Jewish forgery”. No need, therefore, to reinterpret this passage or to forfend any untoward implications. What concerned R. Yehudah he-Hasid’s contemporaries, the Tosafists, in this statement was its practical halakhic implications for the Sabbath Torah readings, not its theological or dogmatic ones, for to them, as to R. Yehudah, there were none.


F] A BROADER ROLE FOR PROPHECY?

- We saw above that the Rambam views the remit of non-Mosaic prophecy in a limited manner. It may NOT have any input into the halachic process. They are not dealing with the issue of post-Mosaic authorship of Chumash, and there is no reason to assume that they would support the suggestion. But prophecy does now have a broader remit.

36. מתת-תבניות הראות דרכו, או שהafia-סינמטק בקול מ馐, או שהוא ויתן ו قائلا' חכמים, או ד واضح, אוريف請求ו בשתי עתים אלוהים

This could be reflected in the Torah itself which states concerning the ‘Voice’ of Sinai - that the voice of Sinai ended at Sinai (ie with Moshe). Chazal interpret this in two opposite ways - that the voice of Sinai ended at Sinai (ie with Moshe). The other view is that the Voice is ongoing.

20. In this post, especially in his response to questions at the end of the post, Rav Sherlow’s makes a number of statements about this topic which are quite remarkable and certainly do not confirm with the standard approach on these issues. He remains a highly respected Rosh Yeshiva in the Religious Zionist world.
21. R. Uri Sherki - a leading kiruv figure in the Religious Zionist world writes similarly - . שַׁמְּרַךְ (Detroit, 2013), p. 32: “The availability of this kind of interpretational freedom and variety also allowed Hasidei Ashkenaz to be comfortable with Ibn Ezra’s stipulation of verses that may have been added to the Torah after the revelation at Sinai.” See Prof Mark Shaprio’s post on the Seforim Blog - .
22. There are significant questions on this analysis, in particular the willingness of other Sefardi Rishonim to explicate the Ibn Ezra’s position, and the majority position of Ashkenazi authorities which strongly opposed the Ibn Ezra on this.
23. R. Ephraim Kanarfogel also writes in The Intellectual History and Rabbinic Culture of Medieval Ashkenaz (Detroit, 2013), p. 32: “The availability of this kind of interpretational freedom and variety also allowed Hasidei Ashkenaz to be comfortable with Ibn Ezra’s stipulation of verses that may have been added to the Torah after the revelation at Sinai.” See Prof Mark Shaprio’s post on the Seforim Blog - .
24. Moshe’s connection to God in the Mishkan is a continuation of the Sinai experience (see Rambam).
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G] CONCLUSIONS

38. In recent days there has been much discussion regarding the belief in Torah Min HaShamayim. We maintain that it is necessary not only to assert the centrality of this bedrock principle in broad terms, but also to affirm the specific belief that Moshe received the Torah from God during the sojourn in the wilderness, the critical moment being the dramatic revelation at Sinai. The Rambam and others have included this in in their various Principles of Faith but its centrality is so evident that an appeal to these Principles of Faith is almost superfluous. The very coherence of traditional Jewish discourse concerning the authority of the Torah she-bikhtav and the Torah she-be’al peh rests upon this conviction.

When critical approaches to the Torah’s authorship first arose, every Orthodox rabbinic figure recognized that they strike at the heart of the classical Jewish faith. Whatever weight one assigns to a small number of remarks by medieval figures regarding the later addition of a few scattered phrases, there is a chasm between them and the position that large swaths of the Torah were written later— all the more so when that position asserts that virtually the entire Torah was written by several authors who, in their ignorance, regularly provided erroneous information and generated genuine, irreconcilable contradictions. Beyond a shadow of a doubt, none of the abovementioned figures would have regarded such a position as falling within the framework of authentic Judaism. While we respect and recognize the theological struggles that are a feature of many a modern person’s inner religious life, the position in question is unequivocally contrary to the faith requirements of historic Judaism.

RCA Statement on Torah Min HaShamayim - July 31 2013

39. It may be that we should reject Ibn Ezra’s view as a maverick position outside the consensus. Even if we do accept it as a legitimate possibility, the fact that we cannot give a concrete number of verses that can be attributed to a later author without sliding into heresy in no way invalidates the idea that a boundary exists. All concepts include gray areas but those questionable areas do not undermine the concepts. The fact that we are unsure whether or not abortion and euthanasia are murder does not mitigate the horror of murder. As Dr. Johnson remarked, the fact that there is a twilight does not minimize the distinction between day and night. We can exclude Ibn Ezra’s view from the charge of heresy, remain unsure about how much more latitude to give for an expansion of Ibn Ezra, and still confidently assert that J, P, E and D are beyond the pale.

Flexibility With a Firm Foundation: On Maintaining Jewish Dogma

- The vast majority of Rishonim understood that every word of Torah was written by Moshe, dictated by God.
- There is a minority view which understands that Torah Min HaShamayim can include later authorship of verses in the Chumash but only through prophecy.
- Almost all classical commentators in the Acharonim have rejected the minority view. Whether or not it is considered heresy will depend to a significant degree on whether it is accepted that there is a ‘psak’ in hashkafa.
- Modern academic theories on Higher Biblical Criticism are very different to the very limited views proposed by some Rishonim.

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25. See also the shiur on YU Torah - Limits of Inquiry, R. Chayim Soloveitchik - https://www.yutorah.org/sidebar/lecture.cfm/937409/rabbi-chayim-soloveitchik/limits-of-inquiry/from minute 41 on the Ibn Ezra and the importance of not taking this further than the mefarshim state.
26. This was a review article of Prof Shapiro’s 2004 book, The Limits of Orthodox Theology.
27. Rav Shlomo Fischer also disagreed with Rav Moshe Feinstein on this issue and accepted that R. Yehuda HaChasid’s position was a minority view within the Rishonim. He understood that it was a machloket between the Sefardi and Ashkenazi poskim of the time, with the Sefardim taking a harder line position. Hence, the Ibn Ezra was very reluctant to publicize his view, but R. Yehuda HaChasid was far more open on it. See R. Uri Sherki at http://ravsherki.org/index.php?option=com_content&view=article&id=1220:12201220-1220&Itemid=100512
28. There are an increasing number of contemporary orthodox thinkers and teachers who take the view that, while this position is certainly limited in scope and limited to small number of Rishonim, it is not heresy. In terms of the Rambam’s 13 Ikarim, it would of course be considered heresy, but this raises the more fundamental question as to whether the Rambam’s 13 Ikarim are indeed the last word on what is considered to be heretical. Note that, although the offending parts of the commentary of R. Yehuda HaChasid were clearly rejected by R. Moshe Feinstein as heresy and censored from some of the original prints of the book, they are still included in the commentary on Otzer HaChochma (which is careful not to include anything heretical). Some of the previously censored comments are also included in a new print of Otzer Ha-Rishonim on Torah.
30. For different approaches on this see the Patchwork Bible series by R. Harvey Belovski referred to above.
31. Prof Shapiro raised a characteristic storm with his 2017 article Is Modern Orthodoxy Moving Towards an Acceptance of Biblical Criticism? Marc B. Shapiro, Modern Judaism - A Journal of Jewish Ideas and Experience, Volume 37, Issue 2, May 2017, Pages 165–193, https://doi.org/10.1093/mj/jkp021. See also the critique of that article and of trends in Modern Orthodoxy at https://cross-currents.com/2017/05/21/changing-mind-modern-orthodoxy/. The comments at the bottom of that post are particularly interesting and Marc Shapiro weighs in to defend his article. Essentially, he is not arguing that Higher Criticism SHOULD become acceptable to Modern Orthodox Jews but simply that it IS becoming so, notwithstanding the major theological and hashkaffic challenges involved and the potentially corrosive effect on their religious commitment.

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