

# THE WORDS *MINHAG* AND *MASORET*

JACOB CHINITZ

Traditions occupy such a prominent place in current Judaism that I wondered why I had the impression that the words *minhag* [custom] and *masoret* [tradition] and their concepts are not prominent in the Tanakh. Indeed, the two words do not appear at all in the Torah, and in the rest of the Tanakh each word appears only once.

In II Kings 9:20 we find: *Vehaminhag keminhag Yehu ben Nimshi ki beshigaon yinhag* which the Jerusalem Bible translates, colorfully: *The manner of driving is that of Jehu ben Nimshi: he drives like a madman*. Although technically the word with the root *n-h-g* occurs here three times, we are justified in considering this as one citation. Moreover, the word *minhag* here certainly bears no resemblance semantically to the usage of the word *minhag* today, or, for that matter, as it was used in rabbinic literature. It is merely Jehu's individual driving custom that is involved in this text.

*Masoret* occurs just once, in Ezekiel 20:37: *Veheveiti etkhem bemasoret haberit*. The Soncico translation renders this: *I shall bring you into the bond of the Covenant*. Obviously here too, the meaning is very different from the way we use *masoret* as "tradition."

In the Torah we have a list of words that constitute the material of lawmaking: *hok* [statute], *mishpat* [judgment], *mitzvah* [commandment], *edut* [testimony] *ot* [sign], *mishmeret* [observance]. All of these are forms of legislation, instituted by God according to a plain reading of the Torah itself. None of these legal terms resonate with the overtones of *minhag* and *masoret*. Those grew, evolved, originated amorphously and ended up as formless and unofficial, in most cases. Indeed, customs and traditions are still evolving – observance of Israel Independence Day is a case in point. The six categories of law in the Torah are formal, specific, commanded, legislated, and accepted by those who are expected to conform to them.

Some of the flavor of this legal process already appears with Abraham. Genesis 26:5 reads: *Ekev asher shama Avraham bekoli, vayishmor mishmar*.  
*Jacob Chinitz was ordained at Yeshiva University and is a member of The Rabbinical Assembly. He has taught at several colleges, and written over 100 articles for many journals. He has served as rabbi at numerous congregations. His book In My Opinion, a collection of 60 essays previously published in 17 journals, was published in 2000.*

*ti, mitzvotai, hukotai, vetorotai* [Because Abraham obeyed My voice, and observed My observance, My commands, My statutes and My teachings]. Here we have three of the six terms spoken of above. The term Torah [*torot* in the plural] may be translated as "teaching." It comes closest to the aura of "tradition" as we use it, but it is still more formal and authoritative. In fact, it may be taken as the formal doctrine upon which the legislation of the Law is based. In terms of this discussion, the point is that Abraham's virtue certainly does not lie in following the tradition of his fathers. On the contrary, as Israel is later told not to follow the ways of Egypt and Canaan, Abraham is praised for giving up the ways of his fathers. But even in terms of starting the tradition to be followed by the children of Abraham, it is not customs and traditions that are mentioned, but rather observances, statutes, commandments and teachings.

Perhaps it is not correct to examine the question only linguistically. Are there substitutes in Torah for *minhag* and *masoret*, which would permit us to say that the concepts of custom and tradition are found there? For example, God speaks of Abraham and his children, in Genesis 18:19: *Ki yedativ le-maan asher yetzave et banov ve'et beito acharov, veshamru derekh Adonai la'asot tzedaka umishpat* [For I know him, that he will command his children after him, to observe the way of the Lord, to do Righteousness, and Justice]. We do not have here an example that corresponds to *minhag* and *masoret*.

When Abraham will teach his children after him, will he thus inaugurate what we call a tradition? I do not think so. The final words in the verse give us the true meaning of this verse as a whole. It is not a question of custom and tradition in the sense of accustomed ways and inherited practices of a community or a people, but rather the imparted morality of the Lord: righteousness and justice. When we speak of custom and tradition today, however, we mean the inherited culture, values, memories from the past, that to an extent rule our religious behavior. We do not use the terms *minhag* and *masoret* for fundamental, legal, or moral values as implied in the phrase *the way of the Lord*.

In general, when the Torah refers to the patriarchs in relation to the people of Israel, it is in terms of the covenants made with them and the pledge of the Promised Land: *Vetachat ki ahav et avotekha vayivchar bezaro acharav* [Because He loved your Fathers and chose His children after them] (Deut. 4:37).

It is a matter of Divine love of the forefathers, leading the Deity to choose their children as an act of favoritism. This is a far cry from custom and tradition.

We also read: *Ki mei'ahavat Adonai etkhem umishomro et hashevua asher nishba la'avoteikhem* [Because the Lord loves you, and to fulfill the oath He swore to your fathers] (Deut. 45:8). Here, again, there is love, oath, and covenant; not custom and tradition.

On the other hand, ways of behavior and manners of religious practice are found in the Torah text. Leviticus 18:3 in an introduction to the laws of sexual purity, states: *Kemaase eretz mitzrayim. . . ukhemaase eretz Canaan lo taasu* [The practices of the land of Egypt. . . and the practices of the land of Canaan, you shall not practice]. Here we have a negative approach to custom and tradition. Do not follow the *minhag* behind you, nor the *masoret* before you. The next verse continues: *Et mishpatai ta'asu ve'et chukotai tishmeru* [You shall perform My judgments and observe My statutes]. The customs of Egypt and the tradition of Canaan must be given up. Torah is legislative, not sociologically determined.

There are two theories of all law. One theory has it that law is nothing but congealed custom. Societies develop personal and social habits, and continue them through generations, until the lawmaker comes along and codifies, legislates, and organizes the existing customs and traditions into official constitutions and legal compendiums. It is said that the English Common Law developed in this fashion. Today's common law is simply the recording, codification and freezing into compulsory institutions enforced by governments who rule societies.

One type of biblical scholarship agrees with this theory. It sees the Torah as the official composite of many diffuse manners of behavior found in the ancient Middle East. Whether one accepts this theory or not, the Torah certainly speaks in terms of an opposite process. It is not the practices that give birth to the law, but it is the law that engenders practices that may flower into ramified areas beyond the original legislation. One must, therefore, understand that the Torah approach is in agreement with the second theory of law; that it is the fountainhead of standards of behavior for societies. Customs and traditions may flow from the original source, and sometimes may differ from or even contradict the original laws, but it is not custom and tradition that are

the bases of Jewish law. On the contrary, Torah law is the basis for social and personal behavior, whether or not the law is always observed.

We recognize that post-biblical Judaism developed in a very serious way, even within *halakha*, the strictly legal form of it, extra-legal institutions and practices under the rubric of *minhag*. This process reaches its epitome in the saying "*minhag mevatel halakha* [custom breaks law]." Other less severe statements have it that "*minhag avoteinu beyadeinu* [the custom of our fathers is in our hands]" and "*minhag yisrael din* [the custom of Israel is law]." As the Talmud indicates, we are also advised that when one is uncertain of the law go see what is practiced in the community [*puk chazi*].

We believe that an examination of biblical text confirms the view that Torah and *Tanakh* are clearly promulgating a religion of law, rather than a religion of custom and tradition.

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RESPONSES from Rabbi Hayyim Hal-  
pern's book **TORAH DIALOGUES**

1. To emphasize that Shabbat was not to be desecrated even by tasks necessary for the construction of the Tabernacle.
2. The Midrash (Lev. Rabbah 7:3) explains: "Let the pure occupy themselves with the study of purity."
3. Marriage to two sisters is only prohibited while both are alive. The other case is where the death of a childless brother causes the Levirate law (Deut. 25:5) to come into effect.