Rabbinic and Lay Communal Authority

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New Conditions and Models of Authority: Changing Patterns within Contemporary Orthodoxy

Steven Bayme

The scene was a leading Modern Orthodox high school. The instructor, trying to explain Cain’s motivation in killing his brother Abel, cited a *midrash* that Cain feared that the Temple would ultimately be built in Abel’s domain. A student quickly challenged the instructor, saying that worrying about something that might happen a thousand years hence hardly constituted a realistic motive for murder. Taken aback by the student’s unwillingness to bow to rabbinic authority, the teacher trivialized both the comment and the *midrash* by saying, “It’s just a *midrash* anyway!”

In truth, this seemingly small incident (and small-minded instructor) illustrates the dilemma of Modern Orthodoxy: how does one preserve rabbinic authority and simultaneously constrict that authority so as to make room for intellectual freedom and
permissibility for expression of doubt? In turn, what limitations upon personal freedom need to be in place so as to preserve the hierarchical value of sacred text in teaching? A truly modern Orthodoxy will celebrate both renewal of Torah scholarship and rabbinic authority yet acknowledge that questions arising from the insights of critical scholarship and modern cultural values need to be confronted honestly rather than dismissed or trivialized.

This paper emanates from a dual perspective—the critical eye of a student of the American Jewish community and the personal experience of someone who occupies the increasingly common position of Modern Orthodox Jewish communal professional. The American Jewish Committee, in its role as think tank and catalyst of the Jewish community, monitors communal trends and proposes measures to enhance positive currents and counteract negative ones. In addressing shifting models of communal authority, I will draw upon both professional and personal experiences. The initial focus will concentrate on what is happening on the general American and Jewish scenes; subsequently, I will turn more specifically to the Orthodox Jewish community. Some thoughts for future direction and modest proposals for communal policy formulation will conclude the discussion.

In terms of America generally, the autonomy of individual conscience clearly stands as a defining hallmark of Western liberalism. Freedom of choice is the dominant American norm. Laws once on the books concerning individual behavior have either been repealed or permitted to lapse. Occasionally, when a law surfaces that seems to violate freedom of individual action, such as the Texas statute criminalizing homosexual behavior between consenting adults, we immediately denounce the legislation as an anachronistic legacy of the Dark Ages. The “American way” upholds the right of individuals to make their own moral decisions—a value perhaps best expressed in the slogan of the abortion rights movement, “No one can tell me what to do with my body!”

Needless to say, this unbridled individualism is hardly consonant with a Judaic language of communal norms and personal restraint. Yet, as we shall see, these positions of “freedom from
authority” have already infiltrated wide sectors of the Jewish community, including some components of contemporary Orthodoxy. Moreover, despite America’s self-understanding as a uniquely religious society, the American model of religion underscores personal freedom and individualism. Robert Bellah’s team of sociologists discovered this some years back in interviewing “Sheila” a woman who defined her religiosity as a little of this and a little of that. Sheila effectively incorporated a few diverse elements of American religious life to form her own religious current popularly termed “Sheilaism.”

Within the Jewish community, Jack Wertheimer and others deemed Sheilaism to be corrosive of religious authority and of any serious form of Judaic expression. Yet, in fact, Sheilaism is already here in the contemporary Jewish community. Intermarriage is perhaps the finest symbol of the growing American Jewish personalism. Once considered an arch sin, intermarriage has become so accepted in the Jewish community that Jewish leaders no longer find it possible to criticize mixed marriage or even uphold the primacy of the Jewish in-marriage norm. Even some Orthodox leaders minimize the significance of mixed marriage or, worse, claim that it represents not a danger to be contained but an opportunity to be welcomed.

From the perspective of American individualism, the choice to marry out is perfectly understandable love will conquer all differences. From the perspective of communal authority, the decision to intermarry represents a fundamental rejection of the claims of Jewish tradition and the power of the community to ensure Jewish continuity.

Homosexuality is perhaps less obvious but equally trenchant as an example of Jews asserting individual conscience over communal authority. Jewish tradition, of course, is unequivocal in proclaiming homosexuality a sin, and its counsel to the would-be homosexual essentially amounts to the statement “Who is a hero? He that masters his passions.” Ironically, however, few Jews in public life have stepped forth to proclaim this position. It was left to Father Richard John Neuhaus to articulate the traditionalist position that someone who recognizes that he is a homosexual should choose the path of
celibacy. Within Orthodoxy, the leading vehicle for discussion of homosexuality, the recent movie *Trembling Before God*, assumed unequivocally that homosexuality is inbred and has no components of choice—a highly controversial assumption that the movie’s creators accepted without question.

To be sure, Sheilaism carries with it some limited benefits. By maximizing the possibility of individual growth and opportunity, American society has proved more welcoming of Jewish participation and more encouraging of Jewish achievement than any society in Jewish history. Second, the emphasis Sheilaism places upon personal conscience serves to remind us that “mitzvot require kavanah” that the conscience does have a voice in determining human behavior even if we cannot grant it an absolute veto. Lastly, Sheilaism also serves to challenge rabbinic authority in areas where it needs to be goaded into action, as in the continuing dilemma of the *agunah*, a problem on which tangible albeit limited progress has been achieved in recent years precisely because many “Sheilas” were proclaiming loudly the need for rabbis to address the issue. To be sure, these benefits notwithstanding, Sheilaism does threaten to replace hierarchical authority with free-wheeling religious anarchism.

In this context, the recent movement of Reform Judaism toward greater traditionalism evokes some degree of ambivalence. Clearly, the specter of more Jews connecting with more aspects of the Jewish heritage represents a welcome trend. Yet the culture underlining this trend is one that emphasizes greater personalism in religious behavior. Stories of personal encounters with the Deity coexist with more libertarian positions within Reform Judaism on mixed marriage and homosexuality. Virtually absent from the vocabulary of Reform is a language of obligations and commitment. The liberal Jewish ethos has developed a vocabulary of personal fluidity—each individual pursues his or her own unique “journey” to the Jewish heritage. With the notable exceptions of the theologians Emil Fackenheim and Eugene Borowitz, one is hard pressed to find Reform voices calling for a return to Judaism as a return to “the commanding voice of Sinai.” The word *mitzvah* itself today connotes more a “good deed” and a social conscience than a Jewish imperative. In a movie
some years back, the actor Rob Reiner rationalized a Bohemian artist’s propensity for adultery by proclaiming, “We artists answer to a higher authority!” Truth surpasses fiction when the director of the movie, Woody Allen, can proclaim in real life, “If it feels right, just do it.”

As suggested earlier, American Orthodoxy has by no means been immune to these developments. Superficially, in the eyes of most sociologists, Orthodoxy remains perhaps the one sector in Jewish life in which rabbinic authority still prevails. People do care about the demands of tradition and pay at least some heed to what rabbis are actually saying. Yet, on the ground, on the Orthodox “street,” the situation is more complex. One can discern at least three positions within Orthodoxy: one that limits rabbinic authority to matters of Halakhah, one that expands the realm of rabbinic authority, and one that challenges authority to enter into uncharted regions.

The position that I grew up with and that presumably remains the official position within centrist Orthodox circles is that the rabbis are authoritative on matters of Jewish law. By contrast, matters of social and communal policy represent neutral ground on which the individual is free to follow the dictates of conscience. Thus Maimonides departed from rabbinic teachings on issues of science and medicine and rejected unreasonable midrashim. Azariah de Rossi went further, upholding rabbinic authority on law but claiming that the rabbis had no special expertise on questions of Jewish history. Rabbi Samson Raphael Hirsch sharply distinguished between law and culture, claiming that the latter, including dress, secular culture, and issues of German politics, represented neutral ground on which reasonable people could disagree without penalty. In more recent times, the late Rabbi Joseph B. Soloveitchik urged that matters related to the territories in post-1967 Israel represented political questions best left to diplomats and generals rather than rabbinic authorities.

In this context hareidi scholars began to invoke da’at Torah, i.e., that the “view of the Torah” must be adhered to whether halakhic issues were at stake or not. A relatively insignificant concept mentioned only once in the Babylonian Talmud, da’at Torah has
come to mean *ex cathedra* pronouncements of the rabbis, and the acceptance of rabbinic authority signals the critical divide between Ultra-Orthodox and Modern Orthodox Jews. Thus Rabbi Elijah Dessler, responding to critics who claimed the rabbis should have encouraged *.aliyah* prior to the Second World War, responds that no one should ever say that the rabbis made a mistake. To be sure, some compare the very concept of *da'at Torah* to an intellectual *akeidah*, submitting personal conscience to the superior wisdom of the *gedolim*. Nonetheless, the prevalence of this view, certainly within *hareidi* circles, is well known. More surprising is how it has penetrated Modern Orthodox circles. The recent conflict over the presidency of Yeshiva University is one case in point, but relatively unsurprising given the enormity of the stakes involved. More suggestive was the case of the well-intentioned rabbi who limited the number of hot dishes to be served at his congregation’s *kiddush* so as to ease competition and reduce resentment among less wealthy congregants as the size of the congregation grew and the cost of celebrating *semahot* escalated. With the best of intentions, the rabbi was arguing that Jewish law may permit sumptuous *kiddushim*, but as the rabbi of a congregation of rich and poor alike, he forbade it. Conversely, when a Modern Orthodox rabbi recommended to his congregation a more liberal *mehitzah* and explained why he believed it to be halakhically permissible, he encountered the response, “Why not consult the *gedolim* don’t they know better?”

These tendencies toward expansion of rabbinic authority by an Orthodox laity that is moving rightward do in fact coexist with limited but high-profile challenges to the limits of rabbinic authority. The declaration of prominent *rashei yeshivah* against women’s *tefillah* groups is now close to two decades old. Yet the number of such groups has only grown rather than diminished. More recently, some have accepted the opinion of Rabbi Mendel Shapiro permitting women to receive *aliyot* even though the preponderant weight of Orthodox rabbinic opinion strongly opposes the concept. To be sure, the number of Orthodox Jews challenging rabbinic leadership in this regard remains small. Nonetheless, the view has made substantial headway in recent years, given its high profile and the
prominence of its spokespersons. Interestingly, these views relate more to Jewish feminism than to a broader range of Jewish communal issues on which American Orthodoxy has moved rightward Israel, intra-denominational cooperation, and modern scholarship, for instance, although these too have been voiced in recent years, notably at Edah conferences.

In this latter context, Modern Orthodoxy has witnessed the emergence of at least four new types of leaders, each representing a unique challenge to the traditional authority of the rabbinate. First, over the past forty years there has been an explosion of academic Jewish studies at American universities. Initially supported primarily by secular scholars I well recall my personal disgust with a professor of Jewish history who tried to regale us with stories of how he and his friends ate ham sandwiches on Yom Kippur in recent decades practitioners of academic Jewish studies have moved closer to tradition rather than rebel against it. Given this trend, the number of Modern Orthodox academics has grown, and their influence in American universities and in the Association for Jewish Studies has generally been quite positive. As a result, within Modern Orthodox congregations there are knowledgeable and articulate scholarly individuals who command great respect and esteem on issues traditionally the province of the rabbi. Over a century ago, the maskil Moses Leib Lilienblum was perhaps the first to suggest a new alliance of lay Jewish intellectual and Orthodox rabbi as the source of authority. In other words, Lilienblum revealingly was willing to accept the authority of the rabbis if they would meet the challenges arising from modernity together with, rather than in opposition to, the emerging Jewish intellectuals. The Modern Orthodox rabbi of today confronts an America in which a fair percentage of academic Jewish scholarship lies in the hands of Modern Orthodox Jews potentially a resource, as Lilienblum proposed, but at least equally as likely a potential ground for friction and tension.14

The second source for challenging rabbinic authority emanates from a well-organized and vocal women's movement. Initially dismissed by Orthodox leaders as a nuisance, the point by now has been established that Orthodox women do have legitimate grievances
and their voices will be heard, that feminist leaders have developed special expertise in both scholarship and communal organization, in effect creating a resource and pressure group within the community that can no longer be ignored. If nothing else, rabbis who attempt to dismiss or trivialize feminist concerns are now subject to criticism that rabbinic leaders are discouraging rather than encouraging the participation of women in Jewish life at the very time when the Jewish community is so threatened by assimilation and communal indifference.

More subtle but by no means less noteworthy as a source of authority has been the emergence of Modern Orthodox communal professionals. Long considered the bastion of the “secular” Jewish community, Jewish organizations for decades were staffed primarily by non-Orthodox rabbis and like-minded professionals. In recent years, however, Jewish organizations have come to value both the expertise of Jews with Orthodox training and the critical need to reach out to Orthodox constituencies. At the risk of sounding overly personal, I would point to the case of the American Jewish Committee. Once considered the most assimilationist of Jewish agencies, the AJC today boasts a staff of whom no fewer than 40 percent of its senior management team define themselves as Modern Orthodox. The same tendency is evident in other Jewish organizations. These individuals have the potential to impact significantly upon the culture of Jewish organizations. Within Orthodox congregations they form a third resource within the community whose expertise on communal issues compels respect and authority.

Last, much as Orthodox professionals are recruited by Jewish agencies, Orthodox laity have discovered the potential for men and women of means to be heard by the general Jewish community. Jewish federations in particular deem it important to have Orthodox participants on their boards. The leadership seminars sponsored by the Wexner Heritage Foundation regularly include Orthodox Jews as participants. While some Orthodox rabbis may express annoyance that leadership education programs of this kind hold out the promise of a “secular semikhah,” most would agree that those entrusted with “tzarkhai tzibbur” should be knowledgeable in Jewish
text, tradition, history and thought the curriculum that Wexner seeks to implement.

Common to all four groupings is a decreased willingness to accept the authority of the gedolim. For some, the study of history suggests that frequently the gedolim have been wrong, as in their opposition to political Zionism, to secular studies, and to emigration from Eastern Europe to the United States. Others are so involved in contemporary communal matters that they question the wisdom of the gedolim on contemporary issues; consider, for instance, the somewhat pathetic attempt by Agudath Israel to state that it in fact supported the pro-Israel rally in Washington in April 2002 even though it could not participate. Still others express not disagreement with the gedolim on matters of substance so much as dissent from the relatively closed style and the dismissal of alternative voices within the rabbinic culture.

My experience at the founding conference of Edah in 1999 was instructive. At the time I was also teaching an honors seminar at Yeshiva College. At the conference, I encountered a number of my students and subsequently asked them what they thought of it. The dominant response was that it was not that the ideas presented were so different or new. Rather what was different was the open atmosphere in which ideas were discussed.

Where, then, are we? Two simultaneous trends appear to be occurring within Modern Orthodoxy. Some call for enhancing the voice of the gedolim. Often the products of one and even two years of post–high school study at Israeli yeshivot, these voices criticize Modern Orthodoxy for its openness to secular culture and identify the modern camp with decreased commitment to Torah. Others, inspired by their relative success in the non-Orthodox world and upset over increased Orthodox isolation from it, call for lessening the influence of rashei yeshivah and enlarging the realm of personal conscience and decision-making.

Both camps, to be sure, reject Sheilais. They acknowledge the real dangers of diminished religious authority. Reform Rabbi Eric Yoffie, for example, in advocating rabbinic officiation at gay marriages, claims, “We have to interpret the Torah according to our
principles,” suggesting that Jewish teaching can be so deconstructed as to mean anything we wish it to mean.\textsuperscript{15} Similarly, Ari Goldman reports widespread mixing and matching of halakhic practice, suggesting, \textit{pace} Dostoevsky, that it is not when God is dead that all is permitted so much as that when individual conscience reigns religion becomes meaningless.\textsuperscript{16}

Recent years have unquestionably witnessed the ascendancy of Rashei yeshivah and the expansion of rabbinic authority. Perhaps, one might urge, we should simply rest content with this renewal of Torah scholarship and celebrate its influence within contemporary Jewry. As argued repeatedly in this paper, religious structure assumes some degree of authority and nurtures a culture of restraint and limitation rather than the unbridled personal freedom so characteristic of contemporary America. By contrast, modernity proclaims loudly that “if it feels right, just do it.” There are some who maintain that an Orthodoxy willing to withstand the tides and combat unbridled individualism ought to be embraced rather than critiqued.

Throughout, this paper has acknowledged the central importance of authority and its counter-intuitive message to an America that embraces Sheilaism. I caution, however, that the renewal of Torah authority has often carried with it the inhibiting of discussion, an intellectually closed atmosphere, and the commission of errors in the realm of communal policy that it would have been better to have avoided. Moreover, this paper asks that we acknowledge the reality that a well-educated Orthodox laity, professoriate, and civil service represent intelligent alternative voices that, in any case, will balk at further expansion of da’at Torah in Modern Orthodox circles. The beauty and strength of Modern Orthodoxy lies precisely in its willingness to live with tension avoiding simplistic answers and embracing two value systems that are both synergistic and in conflict at the same time.

Put differently, in the keynote paper delivered to this forum, Rabbi Aharon Lichtenstein called for the broad involvement of the talmid hakham in society morally, spiritually, and politically, yet without any concurrent expansion in the concept of da’at Torah.\textsuperscript{17} In effect, Rav Lichtenstein called for greater rabbinic influence rather
than an expansion of rabbinic authority. Clearly, at a moment when the Jewish community is so concerned over its future continuity, it requires the voices of Torah scholarship on a broad range of issues confronting both Jews and American society. The general culture not only requires such guidance but in many cases may even welcome it. My disagreement with Rav Lichtenstein relates to the question of what training future talmidei hakhamim will require to assert their leadership in the Jewish community. For Orthodoxy to seize the opportunity to provide leadership will require Orthodox leaders who possess a broader cultural base and wider set of experiences. Serious liberal arts undergraduate education aims to nurture critical thinking and intellectual faculties and challenge students to weigh competing value systems. Involvement in broader Jewish communal affairs will require students to work together with individuals from diverse backgrounds and with differing outlooks. Many of these individuals and groups may be enlisted as allies in the strengthening of Jewish life.

More specifically, to the extent that study programs in Israel limit one’s undergraduate liberal arts education, the price these programs exact in terms of limiting secular education is quite severe, in fact reducing one’s college years to pre-professional concerns often packed into two or three years of undergraduate coursework. Moreover, to the extent that yeshivah training, especially as nurtured in Israeli yeshivot, creates a closed atmosphere, unreceptive to open exchange and critical thinking, its brightest graduates simply will not be equipped to confront non-Orthodox individuals and groups that are otherwise intellectually open and receptive to the study of Torah and seeking its guidance on contemporary questions. To be sure, some trivialize such concerns by simplistically proclaiming that talmud Torah keneged kulam. The position itself, of course, is unarguable. Yet it also limits the role of madda to acquisition of the skills necessary to earn a living rather than to broaden one’s horizons culturally and intellectually. In short, the type of leadership that Rav Lichtenstein advocates will also require a different type of rabbi—one who is not only a talmid hakham but also well read in history, philosophy, and literature, absorbing the insights of
these disciplines concerning human nature and behavior. We also require rabbis who are keenly aware of political currents and feel it is the responsibility of rabbis to address them. We will require rabbis who understand the non-Orthodox community and are willing to work with it rather than against it for purposes of strengthening the Jewish people. Above all, it will require rabbis with open minds and broad horizons able and willing to engage in dialogue with those who are intellectually open yet not fully committed to the enterprise of Torah.

What, then, needs to be done? Permit me to conclude with some modest and tentative recommendations for future directions within Modern Orthodox communal policy:

First, abandon the pretense that Orthodoxy will survive by virtue of its isolation. To be sure, Orthodox successes in securing Jewish continuity are remarkable and warrant wider dissemination and emulation. Again, the post–high school year in Israel provides a good case study. Nonetheless, as the 1990 National Jewish Population Study revealed, considerable slippage from Orthodoxy occurs even as it maintains continuity. This fluidity into and out of Orthodoxy ought to deflate claims of Orthodox triumphalism. To the broader Jewish community, nothing so underscores the Orthodox image of smugness and self-righteousness as the oft-heard claim that we will survive while the non-Orthodox disappear.

Second, engage the general Jewish community rather than retreat from it. To be sure, as noted, there are real dangers here. I recall one rosh yeshivah arguing against the study of Jewish history not because of its contents so much as because one would undergo a process of secularization that would prove corrosive of traditional authority. Yet the advantages of this engagement well outweigh the risks. Orthodoxy has a major opportunity to spearhead Jewish renewal and provide wisdom to the entire Jewish community. Calls for a new institute on Jewish leadership in Yeshiva University hold out the promise of bringing the voice of Orthodoxy into the centers of power and influence in the American Jewish community and re-establishing Orthodoxy’s rightful place as the voice of Jewish tradition and learning. To be sure, this route is perilous. Diminished rabbinic
authority will not only make rabbis uncomfortable but will also threaten to overthrow the hierarchy of values that lies at the root of any religious system. However, an Orthodoxy that is mature and self-confident should be able and willing to undertake these risks.

Third, engage intellectual challenges rather than declare them irrelevant or impermissible. An interesting encounter occurred recently at Yeshivat Chovevei Torah at a public symposium on the permissibility of Biblical criticism. In some respects, this echoed the nineteenth-century discussion of Nachman Krochmal, who called for a new Guide for the Perplexed that would absorb the challenges of historical scholarship much as Maimonides had absorbed those of Aristotelian philosophy.20 Those arguing for an open inquiry into the challenges of Biblical criticism are in fact arguing both that a truly modern Orthodoxy cannot ignore such challenges and that there is, in fact, much to be learned from Biblical scholarship that will enhance our understanding of Jewish text even as we insist upon the hierarchical authority of the text.

To be sure, as Professor Avi Sagi of Bar-Ilan University has argued, “Sacred text cannot simply be passed over.” The interpreter of text accepts its authority and struggles to reinterpret difficult passages. Nonetheless, the modern interpreter also brings autonomous reason and personal judgment into the process of interpretation. Dr. Sagi makes the case for a Modern Orthodox inquiry: preserve the hierarchy of values in studying the text, but infuse the study with the insights and perspectives that modern scholarship can offer.21 Conversely, those who in effect mandate, “Don’t go there, for it will irretrievably lead to heresy,” are asking that well-educated and intellectually minded Modern Orthodox Jews must close their minds dogmatically to some of the most influential trends in Jewish scholarship today.22 This question of approach affects not only the findings of modern scholarship. Perhaps more important, it is a question of whether we approach our study in an atmosphere of open inquiry or of closed authority.

Last, acknowledge that the realm of communal policy involves matters of judgment that are more easily prone to committing error. Noted above were the views of gedolim who counseled against
Zionism and emigration from Eastern Europe to America. A similar debate might be held today concerning the strong limitations Rabbi Soloveitchik placed upon interfaith dialogue. Obviously, the point of the exercise should not be the overthrow of rabbinic authority. On the contrary, the halakhic system cannot exist absent some degree of hierarchy. Rather, we must be wary of expanding the realm of authority to the extent that the idea of da'at Torah permeates Modern Orthodoxy, thereby reflecting an ascendancy of hareidi values within the Modern Orthodox world.

To be sure, many of these recommendations are counter-intuitive to the prevailing currents in contemporary Modern Orthodoxy. A famous midrash notes that the Ten Commandments were “inscribed” on the tablets and that the Hebrew for “inscribed” also connotes “freedom” namely, that ultimate freedom lies less in personal liberty than in obedience to command. This midrash has often served as the rallying cry of those who equate freedom with consulting the gedolim. In the twentieth century, Sir Isaiah Berlin addressed the history of a dual vision of freedom in Western thought personal liberty and the obligations of membership in a community. Perhaps the challenge to Modern Orthodoxy lies precisely in its refusal to choose between these two concepts of freedom.

Each has its role as well as its limitations. The capacity of Modern Orthodoxy to live in two worlds to balance the claims of tradition with those of modernity, to weigh the points of consonance and of dissonance between them, and, most of all, to live with tension in the absence of simple solutions will, in the long term, be both a test of Modern Orthodoxy’s sustaining power and a measure of its salience.

NOTES


17. See R. Aharon Lichtenstein’s paper in this volume.


22. Interestingly, Dr. Norman Lamm’s views have changed somewhat on this point. In his recent and impressive collection of published articles, *Seventy Faces*, he at one point dismisses Biblical criticism as a “nuisance” (vol. 1, p. 93) yet elsewhere describes the necessity for modern rabbis to “learn modern historical and biblical scholarship probably our greatest and most pressing need at present” (vol. 2, p. 91). See Lamm, *Seventy Faces*, 2 vols. (Hoboken, NJ: Ktav, 2002).


24. Berlin distinguishes between “positive” and “negative” freedom and clearly prefers the latter, noting that positive liberty can often open the door to tyranny. See Berlin, *Four Essays on Liberty* (London: Oxford University Press, 1969), pp. 118–172.