

# *Daat Torah*

*Rabbi Alfred Cohen*

*Daat Torah* is a concept of supreme importance whose specific parameters remain elusive. Loosely explained, it refers to an ideology which teaches that the advice given by great Torah scholars must be followed by Jews committed to Torah observance, inasmuch as these opinions are imbued with Torah insights.<sup>1</sup>

Although the term *Daat Torah* is frequently invoked to buttress a given opinion or position, it is difficult to find agreement on what is actually included in the phrase. And although quite a few articles have been written about it, both pro and con, many appear to be remarkably lacking in objectivity and lax in their approach to the truth. Often they are based on secondary source and feature inflammatory language or an unflattering tone; they are polemics rather than scholarship, with faulty conclusions arising from failure to check into what really was said or written by the great sages of earlier generations.<sup>2</sup>

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1. Among those who have tackled the topic, see Lawrence Kaplan ("*Daas Torah: A Modern Conception of Rabbinic Authority*", pp. 1-60), in *Rabbinic Authority and Personal Autonomy*, published by Jason Aronson, Inc., as part of the Orthodox Forum series which also cites numerous other sources in its footnotes; Rabbi Berel Wein, writing in the *Jewish Observer*, October 1994; Rabbi Avi Shafran, writing in the *Jewish Observer*, Dec. 1986, p.12; *Jewish Observer*, December 1977; *Techumin* VIII and XI.

2. As an example of the opinion that there either is no such thing now as *Daat Torah* which Jews committed to Torah are obliged to heed or, even if there is, that it has a very limited

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authority, see the long essay by Lawrence Kaplan in *Rabbinic Authority and Personal Autonomy*, cited in the previous footnote. Kaplan argues essentially that the concept *Daat Torah* was invented, or at least developed, in order to create a submissive society.

In support of his thesis that the Chazon Ish was one of the great exponents of "submissiveness" (p.24), Kaplan cites a letter of the Chazon Ish with what he terms a "forced interpretation" of a text in the Rashba; however, a close reading of the original makes it difficult to support Kaplan's conclusions, for the Rashba says precisely what the Chazon Ish said he said.

It is ironic that in Kaplan's view *Daat Torah* is an ideology which arose in response to the perceived negative influences of modernity—yet, when challenged to take a position on the propriety of women's prayer groups, one of the more important "modern" questions to surface in the past few decades, Rabbi Louis Bernstein, then president of the Rabbinical Council of America and never remotely associated with the Right Wing of Orthodox Judaism, turned to a number of *Roshei Yeshiva* for their ruling, and not to "modern" or pulpit rabbis.

Rabbi Berel Wein wrote a negative review and commentary on Kaplan's article, which appeared in the *Jewish Observer*, October 1994, pp.4-9. Although it is common practice to allow an author to respond to criticism in the same journal which finds fault with his thesis, no response by Kaplan appears in the *Observer*.

Those writing in favor of the authenticity of the notion *Daat Torah* (see, for example, the article by Shlomo Shaanan in *Techumin* referenced in note no. 1) also often fail the objectivity test when reporting what our sages actually said. Thus, he purports to base this concept on the Gemara itself: in *Bava Bathra* 116a it says that since nowadays there are no prophets, if one has a problem he should go to a wise man (*chacham*), i.e., a scholar well-versed in Torah wisdom. Now, while it is true that the Gemara says this – the author has left out the rest of the sentence! It actually says "...let him go to a *chacham*, and he will pray [to God] for mercy for him!" The Gemara is advising people to ask the Torah scholar to pray for them, not to advise them! This particular talmudic passage has really nothing to do with submitting to the directives of Torah scholars! Unfortunately, a similarly cavalier

Leaving aside these rather flawed and argumentative writings, we must acknowledge that the topic of *Daat Torah* is indeed a very important one, raising a question that every Jew who is conscientious in his Torah observance needs to address: What is meant by the term "*Daat Torah*"? Does Judaism believe there is such a thing as *Daat Torah*? What does it encompass? To what extent is *Daat Torah* binding upon individuals in the Jewish community?<sup>3</sup> How

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attitude is evident in his use of other sources, such as the *Tzitz Eliezer*.

Perhaps Shaanan's weakest argument is based on a verse in the book of I Samuel (9:6), where he seeks to prove that asking advice from a *chacham* has its source in the Torah. When Saul, prior to being chosen as king, was searching through the countryside for his missing donkeys, his attendant advised him to seek out Samuel and ask him what to do. But he is totally misreading the verse -- they went to ask the "*ro'eh*", the "seer" for his *prophetic* vision, not for his rabbinic input! How can one compare a prophet to a rabbi?!

It strikes me that this is indicative of one of the major problems in the Jewish community -- there is precious little objective examination of principles, but rather defensive polemic to protect a particular position. The unwillingness to consider other points of view and the lack of preparedness to counter objections with facts is an unhealthy feature of our polarized Jewish society. This turns a sober, serious inquiry about the deeper requirements of Jewish *hashkafa* into dogmatic argumentation, which in the long run weakens, rather than strengthens, belief.

3. In the *Yated* of February 8, 1991, an article appeared seriously questioning how deep the commitment to *Daat Torah* really is, in light of the reality that despite the "unanimous urging of *Gedolim* in Eretz Yisrael that those who are in the country should not leave" during the threat of the Persian Gulf War, yeshiva students fled in droves. That such an admission should be voiced in the pages of the *Yated*, which caters almost exclusively to the right-wing Orthodox, is a stunning admission that this ideology has a weak constituency in practice, if not in theory.

does one know who is the individual or the group endowed with *Daat Torah*? As often occurs in such a beclouded topic, there is no doubt a great deal of truth and benefit in this ideology, but also many problematic areas in the concept of *Daat Torah* as it is conceived today.

The present study will address these questions, hopefully in an objective manner, relying on the actual words and writings of our sages as the primary source for arriving at an informed understanding of this most vital issue.

First, let us address the role of a *talmid chacham* in society; i.e., what is included in the concept *Daat Torah*?

It is not uncommon today for pious, sincere individuals to ask their rabbi's advice on questions from the sublime to the ridiculous, having nothing to do with either halacha or *hashkafa* (ideology), but of a practical and mundane character. I have personally been assured by a very sincere individual that a truly religious person will ask his rabbi what color to paint his house [!], whether to purchase a new car, whether to undertake a new business venture, and the like. Others have a more circumscribed list of topics on which they feel rabbinic advice is required.

A number of eminent Torah personalities in the past have written about going to a *talmid chacham*, a Torah scholar, to ask his guidance on everyday situations. The *Ba'al haTanya*,<sup>4</sup> when asked about doing this, expressed his surprise and consternation:

My dear friend...."Remember the days of old, understand the years of every generation" – has there ever been anything like this since the beginning of time?! Where, in all the books of the scholars of

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4. R. Shneur Zalman of Liady, the first Lubavitcher Rebbe.

Israel, whether the earlier or later ones, have you ever seen such a custom instituted, to ask about a secular question, such as what to do in some mundane matter, even from the greatest of the early wise men of Israel, such as the *tannaim* and *amoraim*...but rather [people would turn to] actual prophets, such as there used to be, such as Shmuel the Seer, to whom Saul went to ask about the donkeys which his father had lost. But in truth, all matters relating to a person, other than something having to do with Torah or fear of heaven, are not apprehended other than through prophecy, and not by a wise man. As our rabbis have taught, "Everything is in the hands of heaven other than fear of heaven..."

And when our rabbis *zt"l* said that people "derive benefit from him [from a *talmid chacham*] by advice and sound wisdom," this refers to words of Torah, which is called "sound wisdom".<sup>5</sup>

In other words, the first Lubavitcher Rebbe was astounded that anyone would think a rabbi would have some particular insight on a mundane personal matter.<sup>6</sup> But a contrasting approach is expressed by the Meiri in his commentary to *Pirkei Avot*, which extols the virtues of a *talmid chacham*: "People benefit from his wisdom and good counsel, [to know how to proceed] in their material activities."<sup>7</sup>

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5. *Iggeret Hakodesh of Baal HaTanya*, Chap. 22.

6. This sentiment is in striking contrast to a not-uncommon practice in the Chassidic community of today.

7. 6:1. See also comments of *Tiferet Yisrael*, *ibid*. The story is told that a man once came to R. Elchanan Wasserman to ask his advice about a business venture. Rav Elchanan opened up a *sefer* and sat down to learn for a brief time. Then he turned to his

Clearly, there are times when it is helpful to have wise guidance. Many young persons find it beneficial to discuss with their religious mentors (whether Rosh Yeshiva, Rebbe, or teacher) topics of personal interest which are not necessarily religious in nature, or may impact only incidentally on their spiritual well being. On a personal level, I was fortunate enough in my youth to be able to have numerous conversations with the Rosh Yeshiva of Chaim Berlin, Rav Yitzchak Hutner *zt"l* and also Rav Yisrael Gustman *zt"l*. These wonderful encounters were utilized to discuss serious questions about my spiritual growth and direction, and it is my understanding that that is the irreplaceable benefit that only a *talmid chacham* can offer. But to expect guidance from a Torah giant for the mundane activities of one's life appears to me – and to many others – to be trivializing and wasting their true gifts. It is my intuition that had I done so, they would have laughed!

Sometimes, it is easier to seek guidance from an "outsider" than from parents. Many young people nowadays go to Israel for a year of post-high-school Torah study, where they often form an intense relationship with one of their teachers, *rebbeim*, or Rosh Yeshiva. At times, these religious mentors play a major role in helping the young person make life-altering decisions. Do these one-on-one sessions qualify as *Daat Torah*?

Furthermore, from time to time rabbinic figures will make pronouncements about political agendas or

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visitor and offered his answer. The man asked him, "Where in the Gemara did you find the answer?" To which the Sage replied, "The words of Torah straighten one's intellect, and when I learned a bit, *Hashem* helped me to find a good advice for you." *Lekach Tov*, VI, p. 121.

personalities – do these qualify as *Daat Torah*? If there is *Daat Torah*, what are its legitimate parameters? Do great Torah scholars possess some kind of special insight even into mundane matters?

The Gemara says that "a *talmid chacham* is preferable to a prophet."<sup>8</sup> What does this mean, in what sense is he superior? Commenting on this dictum, the Rashba notes,

Although "prophecy was taken away from the prophets," this refers to prophetic visions, but the prophetic insight of the wise men, which [comes] via wisdom, that has not been nullified; rather they [*talmidei chachamim*] know the truth through the Divine spirit which is within them.<sup>9</sup>

Following in the same path, the Ritva<sup>10</sup> also understands Divine wisdom as having been given to Torah scholars, explaining that "they perceive through their intellect many things which, with natural intelligence, it would not be possible to apprehend." The Maharal reaches a similar conclusion:

[T]he wise man [*talmid chacham*], based on his intellect...can grasp matters which are exceedingly obscure.<sup>11</sup>

It is my understanding that these great *Rabbonim* are

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8. *Bava Bathra* 12a.

9. Rashba, *ibid.* The *Zohar*, *Sh'mot* 6:2 writes, "The Divine spirit rests upon a wise man always, [but] upon a prophet, [only] at times."

10. *Ibid.* See also *Iggerot Chazon Ish* I:182, "Faith in scholars (*emunat chachamim*) is a function of faith in wisdom in general; there is no wisdom in the world without [its being] funneled to us through a living person."

11. First introduction, *Gevurot Hashem*.

describing a phenomenon very close to what is colloquially perceived as *Daat Torah*: That a person who spends his nights and days immersed in Torah wisdom eventually becomes imbued with an almost intuitive grasp of what *Hashem* wants; in that sense, his advice can be wonderfully insightful for the individual and of great assistance to the community.

Written centuries ago, these opinions hardly constitute a "modern phenomenon"<sup>12</sup> reflective of a breakdown in traditional communal structures, and the concomitant weakening of the influence of community rabbis and lay leaders. Although the role of *Roshei Yeshiva*, possessed of great Torah scholarship and often personal charisma, may indeed be far more prominent nowadays than in the past, it is hardly indicative of a new phenomenon; it merely signals a new locus for *Daat Torah* in our day.<sup>13</sup>

According to Rav Yosef Dov Soloveitchik *zt"l*, one of the most difficult burdens placed upon a Jew is subjugating his will to the dicta of his religious mentor ("*lehitbatel le-rabo*").<sup>14</sup> In his view, the entire structure of Judaism is

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12. As stated by Kaplan, *op. cit.*, p. 12, and in the pamphlet by Rabbi S. Spero, "Divrei Torah", p. 18.

13. The Vilna Gaon (Commentary to *Mishlei* 16:1) and also Rav Kook (*Mishpat Kohen* 95:7, on the phrase "*sod Hashem Liyerayav*") express the sentiment that the *Ribono shel Olam* assists the sincere Torah scholar to arrive at the proper conclusion; this is akin to what *poskim* term *siyata di'shemaya*. (See *Sotah* 4b and 10a).

14. As reported a number of times in the biography *Nefesh HaRav*, written by his student R. Hershel Schachter. See pp. 27, 58, 307. These sentiments are in sharp contrast to the allegation of Lawrence Kaplan (see note no.1) that "the ideology of *Daas Torah* [sic] is a central...element in the ethic of submission that characterizes the rejectionist approach...[which] is ...that unquestioning submission to authority, the authority of *halakhah*, of the *gadol*, of God, is



predicated on this acceptance of the teachings of one's rabbi; a Jew should ask himself, when a new challenge arises, "How would my Rebbe have responded?" Rav Soloveitchik taught that this was the essence of the clash between Korach and Moshe. Korach claimed that "all the congregation are holy," all of them were present at the giving of the Ten Commandments, and therefore, in essence each Jew was entitled to interpret the Torah as he saw fit. To Moshe Rabbenu, this spelled the destruction of Judaism; for this reason, he reacted as strongly as he did, begging *Hashem* to wipe out Korach and his entire entourage from the face of the earth.

It is clear that Judaism cannot survive with each individual picking and choosing which rules he wants to follow and which to reject. Everyone must have his rabbi or his mentor, whose directives he is prepared to accept even when he finds them difficult.

It is comparable to an individual experiencing certain symptoms, turning to a medical expert for advice. After the doctor has taken many tests and ruled out the usual illnesses, he may still turn to the patient and admit, "I can't tell you for *sure* what you have, because the tests came out negative. However, based on my years of study in medical school, my experience with patients, and years of practice, I have an intuitive feeling that your problem

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the highest religious value and one that is absolutely opposed to the modern values of intellectual autonomy and self-expression."(pp.24-5). He names the *Hazon Ish* [sic] and Rav Dessler as the two major exponents of this ideology. Yet in Rav Schachter's intellectual biography of Rav Soloveitchik, we find striking evidence that the Rav equally believed and taught this same principle. One can hardly justify characterizing the Rav as rejecting the "modern values of intellectual autonomy and self-expression."

is-." Certainly, his advice would be well worth following. Could his reading of the situation be faulty? Possibly. But it is far more likely that *he* understands the situation better than the patient himself does.

### **Defining *Daat Torah***

The Jewish community has been guided for millenia by its Torah leaders. That leadership entails far more than simply deciding whether a chicken is kosher or not, or whether something is *assur* or *muttar*. There is also a deeper awareness of the obligations of the Jewish community vis-a-vis other nations and their role on the world stage at any particular juncture in history. The Netziv alludes to this in the introduction to his commentary on *Sefer Shemot*: After explaining that acceptance of the Torah by the Jewish people is the primary purpose of Creation, and that it is the role of the Chosen People to be "a light unto the nations" and demonstrate that the purpose of Creation is only to glorify the *Ribono shel Olam*, he comments that nevertheless this truth escapes many individuals:

And yet, there are many of Israel who have not attained [the level of] *Daat Torah*...Nevertheless, only the Torah is the rationale for the elevation of Israel.

It is my understanding that the Netziv here is defining *Daat Torah* as a person's realizing what it is that *Hashem* expects from him, how his life's efforts should be directed toward fulfilling the role of the Jewish community, what is proper and what is not. Most importantly, the key to understanding how best to glorify the Name of G-d through their actions eludes many. Under these circumstances, who better to guide the individual's actions than someone who is endowed with an abundance of Torah insights?

This also was the sentiment expressed by R. Chaim Ozer

Grodzinski in a letter to Rav Hildesheimer, who had asked about moving the Rabbinical Seminary started by his father from Berlin to Eretz Yisrael. Rav Chaim Ozer advised him not to:<sup>15</sup> "I told him and requested that he report to others my *Daat Torah* that this should not be done under any circumstances." R. Chaim Ozer explained that when the senior R. Hildesheimer had started his Seminary in Berlin, it was done to combat the Reform movement, "but how can you even think to establish a 'Rabbinic factory' such as this in the Holy Land, wherein there are great yeshivot and great rabbis, great in Torah and *yirat shamayim*?" He was objecting to the purported purpose of turning out "new style rabbis, to whom *Derech Eretz* [worldly knowledge] is the main thing, while Torah is secondary!"

We see here an instance of *Daat Torah* which clearly extends beyond the parameters of pure *p'sak halacha* (deciding whether something is permitted or forbidden by Torah law). Here, *Daat Torah* is the expression of an outstanding Torah leader about what is appropriate in the context of building up the Holy Land and society of Israel.<sup>16</sup>

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15. *Iggerot Achiezer* No. 270, p.443.

16. Not all questions which Torah leaders are called on to adjudicate fall neatly into a definable category, such as halacha, *hashkafa*, economics, etc. Often, they straddle a few areas and may have broad repercussions. A number of such questions come to mind: When the Soviet Union was under Communist control, there were many who wanted to mount demonstrations on behalf of the beleaguered Jews there, while others tried clandestinely to help them escape or to smuggle in religious books and artifacts. When asked their opinion on the best way to proceed, *Gedolei Yisrael* had to weigh a number of factors: whether public demonstrations to help free prominent Soviet "Prisoners of Conscience" might have negative repercussions on other Jews in the Soviet Union [the Mishnah in *Gittin* 45a cautions that it is prohibited to help a few prisoners escape because it might endanger the other prisoners

Whether the phenomenon should be called "*Daat Torah*" or not, there has long existed an awareness in the hearts and minds of Torah greats that, even if one cannot pinpoint the exact chapter and verse, there are certain things which are not in the spirit of Torah or even harmful to it, and therefore should be stopped. Thus, when the first tentative steps were taken by advocates of proto-Reform – such as rearranging the prayers or modifying traditional synagogue architecture – leading rabbis opposed them because they intuited that these preliminary "reforms" were the first steps in the attempted dissolution of Torah Judaism.

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even more; see Rashi, *d.h.* "*deleka*" and whether using up political capital to help Jews in Russia might detract from needed influence to help Jews in Israel.

Another issue which needs *Daat Torah* is whether to return parts of Eretz Yisrael to Palestinians and other Israeli neighbors. Here the *issurim* of giving away any part of the Holy Land, or of *lo techanem*, have to be weighed against the *pikuach nefesh* problems inherent in the current realities. For a discussion of the interface between halacha and practical concerns on this topic, see the articles by Rabbi J. David Bleich and Rabbi Hershel Schachter in volume XVI of the *Journal of Halacha and Contemporary Society*. Clearly, all these issues require consultations with political and military experts, not only halachic expertise. The proper balance of all these factors is expressed in *Daat Torah*.

Consequently, it is distressing to hear that when a major rally of Jews to Washington was called in Spring 2002, there was a difference of opinion about attending. Since Rav Neuberger of Ner Yisrael Yeshiva was in favor of going, and he is certainly an individual with impeccable credentials in the Torah world and, furthermore, is recognized as exceptionally astute in dealing with political matters, it is hard to understand how there could be a contrary opinion in the Torah community. The failure to follow his advice is disheartening to those who would like to feel that opinions expressed as *Daat Torah* are indeed entitled to that lofty encomium.

It is my understanding that these quasi-intuitive responses were what the Netziv and R. Chaim Ozer were referring to when they mentioned *Daat Torah*.

In his article about *Daat Torah*, Lawrence Kaplan cites the eulogy which Rav Yosef Ber Soloveitchik delivered in 1940 upon the passing of R. Chaim Ozer Grodzinski. The Rav's words eloquently define the phenomenon we are discussing:

*The very same priest, whose mind was suffused with the holiness of the Torah of R. Akiva and R. Eliezer, of Abbaye and Rava, of the Rambam and Rabad [sic], of the Beth Yosef and the Rema [sic], could also discern with the holy spirit [roeh be-ruah ha-kodesh] the solution to all current political questions, to all worldly matters, to all ongoing current demands.*<sup>17</sup>

The Chazon Ish expresses a similar sentiment, decrying the "policy to divide the Torah into different parts – ruling on *issur v'heter* as one part, and ruling about matters in the 'marketplace of life' as a second part."<sup>18</sup>

Elaborating on the role of the true Torah leader as reaching beyond only informing others what Jewish law requires in any specific instance, Rav Yaakov Kaminetsky seems to feel that the true Torah leader will intuit what *Hashem* wants, as follows:

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17. Cited by Kaplan in "*Daas Torah*" pp.8-9. I concur with Rabbi Wein (see note 2) that it is insulting to the memory of Rav Soloveitchik *zt"l* to imply, as Kaplan seems to, that the Rav only adopted this attitude when he addressed the Agudah, but would have expressed a different sentiment were he speaking to a Mizrachi convention.

18. Cited by *Lekach Tov, Devarim II*, p. 20. The same attitude is evident in *Ohr Elchanan, II*, p. 76.

A practical example of zealousness not based on a strict reading of the Law...[arises] from the following question: What should a person do, if he has the choice to marry a Jewish girl who will not follow the laws of family purity or to marry a non-Jewish woman? Which is preferable? A scholar who has not served an "apprenticeship" with a major *posek* sufficiently, would certainly say that inasmuch as relations with a *Niddah* [a woman who has not immersed in a mikvah, in accordance with the laws of family purity] is [punishable] by Divine excision from the Jewish people [*karet*],[therefore it would be better to marry the non-Jew]. Nevertheless, the Rambam ruled differently...<sup>19</sup>

Rav Kaminetsky is indicating that there are meta-halachic considerations which the true Torah personality factors into the equation before issuing a ruling, considerations which are beyond the scope of even most rabbinic scholars, let alone the ordinary individual. As we pointed out in the metaphor of the doctor dispensing medical advice based on his intuition after years of study and practice, the scope of his conceptualization and the validity of his advice transcend the pedestrian advice of one's local G.P. Thus, too, *Daat Torah*. All students of Rambam grasp that this is the implication of Rambam's writing "*yireh li*", "it seems to me." That which "seems right" to Rambam is the product of a lifetime spent totally immersed in Torah, and it behooves all Jews to take his conclusions to heart.

A wonderful illustration of this ability to view an issue from a broad historic perspective can be seen in the development of the Bais Yaakov movement. Although

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19. *Emet LeYaakov, Parashat Vayechi*, p. 237.

traditionally Jewish girls had received all their formal Jewish training at home, after World War I Sara Shenirer *zt"l* became convinced that rudimentary training alone could not compete with the lure of modern society, which beckoned and beguiled young women to abandon their religious observance. Inspired by her conviction, she sought the support of the Chafetz Chaim in starting to educate girls in a school setting. That visionary Torah leader appreciated the immediacy of the problem and championed her cause – although there were other great Torah figures who did not yet, at that time, see the need. (Ultimately, virtually all agreed.)

If our discussion so far is the correct reading of what many of our greatest Torah figures have written for centuries, I believe it comes close to serving as a "working model" or perhaps even a definition of *Daat Torah*.

### **Limitations**

In ancient times, the Supreme Sanhedrin in Jerusalem was empowered to issue rulings binding on all Jews. That was the authority of *Daat Torah* then. Nowadays, however, that prerogative no longer exists. In today's circumstances, any Jewish ruler or leader, or even *posek*, possesses only limited authority, confined to the area over which he presides, whether it be his students, or a congregation, a town, or even a state. No sweeping pronouncements by one individual can obligate all Jews to follow.<sup>20</sup>

The Rivash in his responsa affirms this limitation:

A rabbi is [entitled to make pronouncements binding] only for his students or his congregation; and certainly, [it is not possible] for one rabbi to

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20. *Responsa Maharik*, No. 161.

make decrees or ordinances for a country other than his own.<sup>21</sup>

In the light of all these limitations upon the authority of a rabbi, no matter how great, in matters of halacha, how much more does this apply to matters of *hashkafa* (ideology)!

The *Meshech Chochma*<sup>22</sup> makes a very important point: Even a great and true Torah leader, whose vision of Judaism is clear and whose wisdom is profound, has to decide not only what is the right thing to do, but also – how the people will perceive it. *Meshech Chochma* states that failure to do this was the true "sin" of Moshe Rabbenu at Mai Meriva. Moshe Rabbenu had made it his policy never to act on his own, for fear that the people would ascribe magical or divine powers to him. However, when challenged by Korach, he deviated from that policy and declared that Korach would be swept away by a supernatural, unique punishment, as indeed he was. When the people at a later time accosted him for lack of water, he reverted to his previous mode, and was not pro-active in trying to get them water. Although his motivation was wonderful, it had a negative effect – the people complained, "See, for his own honor [against Korach] he goes out to fight, but for us, he sits back!" Even Moshe Rabbenu, the very embodiment of *Daat Torah*, erred in not realizing how his very fine policy would be misinterpreted by the Jewish people.

Therein certainly lies a profound lesson for Jewish leaders in all ages.<sup>23</sup>

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21. No. 271.

22. *Parshat Chukat* 20:11, d.h. "Ha"ri Albo."

23. Parenthetically, we may note that lack of confidence in their leaders' objectivity is a major deterrent to communal



Expounding on the concept of rabbinic authority, Maharatz Chayyut concurs that the Sanhedrin was empowered to issue binding directives for all Jews, but he notes that was "only specifically when a matter was adjudicated in a conclave of all the sages who were then present in the *lishkat hagazit*" (the official meeting place).<sup>24</sup> He continues to add particularly that as far as the opinions of individual rabbis recorded in the Talmud, who may even have issued decrees for their own students or city, all these do not fall within the rubric of "do not deviate from their words", inasmuch as they were not formulated in an official conclave of all the scholars, which would apply to all Jews. In essence, that was the role played by the Great Sanhedrin

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discipline. No matter how judicious and desirable rabbinic pronouncements may be, if people anticipate that certain [wealthy or powerful or well-connected] individuals are not pressured to adhere to standards demanded from others, they will balk at any attempt to set limits on their own behavior. As an example, if people were to get the impression that certain individuals are exempt from following recently-issued guidelines for limiting ostentation and excessive spending at weddings, there would be little incentive for others in the community to adhere to them. Or when a Jewish bookstore is picketed because it sells *sefarim* by Rav Kook, and no protest is heard from rabbinic leadership, it fosters a feeling that the rabbinic leadership kowtows to certain groups or individuals. Under the circumstances, lack of respect for *Daat Torah* abounds.

24. *Kol Kitvei Maharatz Chayyut*, p. 109 ff. He also cites Ran, Ramban, Rashba, Rambam (in *Moreh Nevuchim*), Maharik, and Ralbach as agreeing with his position. It is the opinion of *Sh"ut Yaavetz* 153 that once the rabbis have met in conclave and voted on a position, it is forbidden for the individual rabbi in the group to continue to maintain a divergent option. It should also be noted that such a conclave, although certainly desirable, does not possess the authority of the Sanhedrin of old. R. Chaim Ozer Grodzinski, in *Iggerot Achiezer* 286-288, is opposed to establishing a Sanhedrin at this time.

millenia ago.

There are a few major problems with implementing *Daat Torah* in a practical sense – there is precious little confidence in the Jewish world nowadays that leaders, even rabbis, are always rendering objective, unbiased opinions; there is apprehension that in this deceitful, mercenary world, some untoward influence may impinge on the pure distillation of Torah knowledge which the leader possesses. As Chazon Ish concludes in one of his letters, "But nevertheless, the praiseworthiness of a Torah scholar does not qualify him, unless his fear of G-d takes precedence over his wisdom, and the Torah wisdom does not find its place in a closed heart."<sup>25</sup>

Sad to say, there is a vague uneasiness in the hearts of many, who would like to see all the great rabbis acting in concert, when they confront the troubling phenomenon that some truly exceptional and able world-class *talmidei chachamim* are excluded from the periodic rabbinic councils, albeit their erudition and devotion seem exemplary. We have seen that no outside factors may be allowed to penetrate the decisions issued in the name of *Daat Torah*. Above all, *Daat Torah* must be fearless, unmoved by flattery, wealth, or public position.<sup>26</sup> The unpleasant suspicion that

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25. No. 24.

26. Rav J.B Soloveitchik used to tell a wonderful story about his grandfather, Rav Chaim, which well illustrates why that sainted individual's decisions were accepted by all as *Daat Torah*: One day, the wife of a poor man died in the small village where Rav Chaim served as rabbi. Immediately, the *Chevra Kaddisha* began the necessary steps for her interment. Then, suddenly the wife of the wealthiest man in town also died, and he wanted her buried first, that day. But in that small town, the *Chevra Kadisha* could only handle one funeral a day, and therefore they turned to Rav Chaim to tell them how to proceed. Without hesitating,

even great rabbis may not be above concern for "political correctness" or pandering to the wealthy, vitiates the preparedness of Torah-true Jews to follow pronouncements which are hailed as *Daat Torah*. When the process is perceived as tainted, the conclusions will not be accepted as true *Daat Torah*, even by those prepared in theory to be guided by it.<sup>27</sup>

### **Qualifications For A Leader**

Assuming that the ideology of following *Daat Torah* is

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Rav Chaim ordered them to return to making preparations for the poor woman's funeral, which they did. The second funeral had to wait. Although that wealthy man made Rav Chaim's life miserable for years afterwards, Rav Chaim told his family that, if it came up again, he would certainly do it again the same way.

In *Seridei Eish* IV, Rav Weinberger writes with great feeling how terrible it is when the Jewish people lose confidence in their leaders.

27. During the past year, a proclamation was issued by Torah leaders, calling upon all members of the community to accept restrictions and guidelines for expenditures when making weddings. The proclamation aroused a great deal of discussion, as well as debate whether this area was indeed the one most in need of correction – some suggested that it would have been far more important and worthwhile to place a limit on the costs of yeshiva education, which places a tremendous burden on thousands upon thousands of families. Be that as it may, the true test of this proclamation's efficacy as *Daat Torah* will be evident in about five years, when its impact will or will not be noticeable. It is the view of this writer that the factor determining whether this move to influence public behavior succeeds is really dependent upon the behavior of the signators themselves: the first time a wealthy or important individual flouts the guidelines but the Torah personalities who signed attend his child's wedding anyway – that will be the end of the project's efficacy.

correct, we have to turn to the other side of the coin and determine – whose opinion qualifies as *Daat Torah*? How do we recognize *Daat Torah* or the one who embodies it? Who decides which individuals are graced with *Daat Torah*?

Knowledge of the Torah, even outstanding erudition, although obviously fundamental, are not in and of themselves sufficient to qualify a *talmid chacham* as possessing *Daat Torah*.<sup>28</sup>

After enumerating all the qualities a scholar must have to qualify for the Great Sanhedrin, Rambam lists the minimal requirements for a member of even the local *Beit Din* of three people: "Each one must have these qualities: wisdom, humility, fear [of sin], hatred of money, love of truth, and love for his fellow human beings."<sup>29</sup>

The Meiri basically reiterates Rambam's description, adding that a person can only be appointed judge if he is "modest, humble, and tolerant", because he has to know how to treat each of the litigants who come before him in accordance with their temperament. Therefore, he warns not to appoint individuals so strong willed and arrogant that they will assume that the position is theirs for life.<sup>30</sup>

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28. *Chagiga* 15b, *Moed Kattan* 17a: "If the teacher resembles an angel of G-d, then let [people] ask Torah from his mouth."

*Shulchan Aruch* 246:8. "A rabbi who does not follow in a good path, even if a he is great scholar and everybody needs him, they should not learn from him until he returns to the good."

29. *Hilchot Sanhedrin* 2:7,8.

30. Meiri, *Yoma* 22a. See also *Vayoel Moshe, Ma'amar Lashon Hakodesh*, #39.

This concept is beautifully explained by R. Chaim Volozhin in his *Nefesh Hachaim, Sha'ar 4, perek 5*: "The Holy One, Blessed be He, does not grant wisdom except to one who has wisdom. And whence comes the first wisdom? The explanation is that 'the

Ramo addresses the minimal intellectual qualifications for the Torah leader: "He knows the give-and-take of Torah, and has a good understanding of most of the places in the Talmud and its commentaries, and the rulings of the *Geonim*, and [study of] Torah is his only profession."<sup>31</sup>

Many will argue that the Ramo's definition of leadership scarcely fits anyone other than leading *poskim* or *Roshei Yeshiva*, and that they are the only ones who should be considered as leaders of a Torah community. Moreover, one could further argue that since only very few scholars are able to live up to this definition, only they should voice their opinion, and it would be wrong to allow less-qualified individuals to sit in the same conclaves with them.<sup>32</sup>

Although this seems like a tenable criterion, the *Pitchei Teshuva* proceeds with the following addendum:

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first [i.e. primary] wisdom is fear of G-d', for the Holy One, Blessed be He, does not grant wisdom except to a person who has fear of G-d."

31. *Yoreh Deah* 243:2. Ramo tenders this description as a means of assessing which persons engaged in Torah study are entitled to be relieved of their communal tax burden. The Chazon Ish, in *Emunah Ubitachon* III:24, extends this to a definition of what a *talmid chacham* should be. See also further in the Ramo as well as *Responsa Rosh*, 15, and *Choshen Mishpat* 60:1.

32. A somewhat related issue is the rationale for Orthodox rabbis not being willing to sit in one Council with Conservative or Reform rabbis, so as not to give the latter the appearance of legitimacy or equality. It is worth noting that many centuries ago, Maharal (*Derech Chaim, Avot* 4:4) cautioned not to bestow authority nor give the title "rabbi" to anyone other than someone who will engender a love for heaven through his actions, since confusion may arise in the public perception when many people are given honorific titles, often quite indiscriminately.

However, someone who has an official public position and many accept him to be a rabbi for them, and he establishes a Midrash and a Yeshiva – certainly he is to be considered a total *talmid chacham*, and he is even able to be a sole judge of the group if they accept his leadership, and he is permitted to judge.<sup>33</sup>

The Rosh, in a different context, sets down criteria for determining which individuals who study Torah are entitled to exemptions from communal taxes. (By extension, these are the elite, the ones qualified to lay down *Daat Torah* for the community). He posits that only those who devote all their time and effort solely to the study of Torah, fulfilling the mitzvah of "pondering it day and night" should be excused from communal obligations..."However, a *talmid chacham* who does not spend his entire time only in Torah study...but also engages in work to earn a living...they expend their energy to get rich and ignore the Torah in order to collect a great deal of money" – they are liable to pay all communal fees, like anyone else.<sup>34</sup>

However, the Rosh then proceeds to describe another communal figure – he is a "fit and proper person, G-d fearing, and establishes time to learn Torah every day and to teach it, and never departs from learning Torah except to do mitzvot, such as mediating between conflicting individuals, and doing favors and kindness, and rendering true and peaceful judgments – yet he asks that he be compensated in order to provide for the members of his household." Unlike the *talmid chacham* who has a regular job, this man would be exempted by the Rosh from

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33. *Pitchei Teshuva*, *Yoreh Deah* 243, end of No. 3. See also *Terumat Hadeshen* 342.

34. *Kellal* 15:7.

communal taxes.

If we think about it, in this second scenario the Rosh has essentially presented us with the job description of many a pulpit rabbi, whose days are spent in listening and helping people with their problems, in teaching them the Jewish law, giving Torah and Talmud classes, supervising kashrut and mikvah for the community. In other words, he is a person who has learned for many years in yeshiva, he continues to learn and teach Torah daily, but he also has other involvements.

Does this imply that all practicing rabbis are entitled to a voice in the formulation of *Daat Torah*? Undoubtedly, many rabbis do not meet even the lesser, secondary list of qualifications tendered by the Rosh. But perhaps many in the rabbinate do indeed devote their efforts and energies to the betterment of the community and their voices should also be heard (although no argument is made here concerning the weight to be given their opinions).

The lack of clarity or agreement about whose opinion should influence communal Torah issues is at the heart of the numerous controversies which arise concerning *Daat Torah*. This is the central issue: who speaks for *Daat Torah* – and who decides who speaks for *Daat Torah*?

As an example of this vexatious problem, a while ago a group of Orthodox rabbis in one community sent letters to members of the congregations of other Orthodox rabbis in the same community (since the former considered themselves more learned and more pious than the latter), denouncing a lecture series in which some of the latter rabbis had participated, and urging the members of these congregations to put pressure upon their rabbis to cease participation in the lecture series. The latter rabbis protested, in the form of a long public letter, explaining why their actions were not only halachically justified but had even

been sanctioned by the very Rosh Yeshiva who was nominally the rabbinic authority for those in the first group.

The major complaint in this public letter of the rabbis under attack warrants our attention, for it speaks directly to the issue we have raised. The public letter maintained that the other rabbis'

...real goal is to delegitimize our view of Torah and of Orthodoxy. As such, what is under attack is a religious world view (that follows faithfully in the footsteps of many great religious authorities in past periods of Jewish history), one that seeks to combine Torah in its fullest embodiment with the best of modernity and contemporary culture....In short, it is not this or that local rabbi or institution that is in question, but rather how we as Jews might live in this day and age, committed to Torah Judaism...

The unwillingness to work together for the common good (we are talking about various types of *Orthodoxy*, all people committed to Torah and *Yirat Shamayim*) can lead to *chillul Hashem* and is certainly a disservice to the Jewish people. This returns us to the obvious but thorny question – who is entitled to an opinion on matters of importance to the Jewish community? Without doubt, this issue remains a great stumbling block in our days.

Furthermore – who is authorized to decide which persons qualify for membership in the rabbinic conclaves whose pronouncements will be binding upon all Jews?<sup>35</sup> It is

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35. It would be naive to think that the membership of the Council of Torah Sages of Agudat Yisrael is a universally-accepted group or that its members include all the Torah scholars whose scholarship qualifies them to sit on such an august body. See the opinion of Rosh in *kellal* 15:7, for a remarkably broad definition of



disheartening when outstanding rabbinic figures and even *Roshei Yeshiva* are excluded from the "inner circle" of Torah community leaders making *Daat Torah* pronouncements, especially when there is no perceived reason for their exclusion other than possibly a slight variation on some ideological (non-halachic) point. When the prerequisites become so narrow as to exclude major Orthodox groups and/or their leaders, we have simultaneously narrowed the pool of those who are prepared to be guided by *Daat Torah*, inasmuch as they feel excluded for no discernible reason.

### Who Qualifies?

How do we know which rabbi is a true *talmid chacham* worthy of universal deference? Who will administer the test? Why was Rav Moshe Feinstein widely accepted as the *posek* for American Jewry, while others found their positions challenged? We are fortunate, to borrow a phrase from rabbinic literature, that even though Jews are no longer prophets, yet they are "children of prophets", and somehow in each generation there is a prescience of who is truly the exceptional *talmid chacham*, fit to be leader of the generation.

Maharit describes the generation's leader as, "all honor him because of his Torah knowledge and stand [in honor] before him."<sup>36</sup>

In our own days, we see that there is somehow an intuition of who is truly outstanding. Albeit it is possible to fool some of the community some of the time, over time, the true *talmid chacham* is recognized and acknowledged.

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the community "elite" whose voices should also be heard.

36. *Choshen Mishpat* II,47. Maharit attributes this opinion to Rashba, Rif, Rosh, Rambam, and *Tur*.

To some extent, it is hard to pin down the specifics of whose opinion qualifies as *Daat Torah* in the modern world, inasmuch as there are many contenders for the title, some whose views are indeed steeped in Torah values. But many are not, and it is not always clear who is who... So many look the part, but are not the same on the inside as on the outside. So many claim their communal positions entitle them to be given equal hearing – and how are we to know what is in their hearts? Therein lies the core of the problem.

Inasmuch as there are such high standards for an individual to qualify as possessing *Daat Torah*, it is not difficult to criticize communal leaders as not being wholly qualified to express *Daat Torah*. The danger, of course, is that under such circumstances, this serves as a facile rationalization for anyone who doesn't want to accept communal discipline. As the history of American Jewry attests, that way lies disunity and disaster.

### **Mistakes**

Our rabbis through the ages have acknowledged that, despite their best efforts, mistakes do occasionally occur.<sup>37</sup> As Maharam Schick succinctly puts it, "it is part of the human condition to make mistakes at times."<sup>38</sup>

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37. See *Derashot HaRan*, 3,5,11.

38. Maharam Schick, *Yoreh Deah* 331. However, all authoritative voices agree that this can never apply to the halachic teachings of *Chazal*. Whatever is in the Gemara is true and has been accepted as such for more than a thousand years. Thus, when *Chazal* tell us that the biblical verse "an eye for an eye" means the *value* of an eye for the loss of an eye – that is correct, beyond any doubt. Whoever argues that point is simply not qualified to have any opinion in Jewish thinking. When the question of "Who is a Jew?" surfaces in Israel, anyone who does not acquiesce

So what does the Torah mean when it instructs us to follow the teachings of the Sages, and "not deviate right or left" (*Devarim* 17:11)? The *Sifre*, cited by Rashi, indicates that this directs us to obey all rulings of the supreme judges of the time, "even if they tell you that right is left and left is right."<sup>39</sup> Of course, this does not give the rabbis license to deliberately manipulate Torah directives to conform to their wishes, as Maharam Schick explains. The cryptic statement of *Sifre* "does not mean that they deliberately switch 'left' and 'right';... rather, they endeavor with all their strength to act 'for the sake of Heaven' to arrive at the truth. Nevertheless, with all this, it is part of the human condition to make mistakes at times."<sup>40</sup>

But if we do interpret the Torah as telling us to follow the rabbis in all their pronouncements, then we have a big problem when or if these rabbis seem, retroactively, to have

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with *Chazal's* rule that a convert must accept Torah and mitzvot – is simply beyond the pale of those who are fit to have a halachic opinion.

On the other hand, the rabbinic dicta termed *Aggadata*, according to many leading thinkers, are not always to be taken literally. See, for example, R. David Tzvi Hoffman in his *Introduction to the Commentary on Vayikra* and two letters by Rav S.R.Hirsch printed in *L'eylah*, Pesach 5749, pp. 30-35. See also the comments of Rambam in his *Commentary on Mishnah, Introduction to Perek Chelek*.

39. It is not my intention in this study to examine the *issur* of "do not deviate", for it has received extensive coverage in halachic literature. See Rambam, *Hilchot Mamrim* 5; *Idem*, *Sefer Hamitzvot*, positive mitzvah 164; *Idem*, *Moreh Nevuchim* 3:41; Ramban, *Sefer Hamitzvot*, *shoresh* I; *Kuzari*, 43:39; *Sefer HaChinuch* 495-496; Ran, *Derasha* 12. It is interesting to note that the *Panim Yafot* extends this rule to any *Beit Din* whose authority is accepted by the entire Jewish people. See also *Torah Temimah, Devarim* 17:11.

40. *Tzelach, Berachot* 63, expresses the same sentiment.

been mistaken. Such was the quandry faced by one correspondent of R. Eliyahu Dessler, concerning the almost universal failure of European rabbis to warn Jews to escape while there was still time before the Holocaust. On the contrary, many counseled their people that it was safer to stay in Europe – which may have compounded the tragedy for the Jewish people. To this glaring inconsistency in the ideology of *Emunat Chachamim* (trust in the Sages) and *Daat Torah*, Rav Dessler responded in his *Michtav M'Eliyahu*.<sup>41</sup>

Our Sages (*Chazal*) have already told us to follow the words of our rabbis, even "if they tell us about right that it is left and that left is right", and not to say, G-d forbid, that they certainly erred...but rather, [one should say that] my understanding is nullified like the dust of the earth in comparison to the clarity of their intellect and the Heavenly support they have (*siyata d'shemaya*)...**this is *Daat Torah* in the rubric of *Emunat Chachamim*.** (emphasis added)

This is a very clear statement made by one of the seminal thinkers of our age, to whom it was evident that the outstanding rabbinic figures who lead the Jewish people are inspired by a deeper understanding than the ordinary, and, their whole hearts and minds being totally immersed in Torah, that renders their decisions more valid than those of ordinary people. Under those circumstances, he believes Jews ought to have faith in their leaders and follow them.

And yet – one finds it extremely difficult not to assume that their advice not to flee Europe while there was still time was tragically off the mark. It is a difficult decision to defend. Perhaps it is important to realize that a bad outcome doesn't necessarily prove the advice was bad.

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41. I, pp. 75-77.

Sometimes the unexpected does happen, which no one could have predicted. Sometimes surgery must take place – but the patient dies of an allergic reaction to the anesthesia. That doesn't mean it was a mistake to perform the necessary surgery, it just means that we are not always in control of the consequences of our seemingly wise decisions or even that we can always foresee all the possible results.<sup>42</sup>

Mulling over this paradox, Rav Hutner offered the following metaphor: Assume there are two people poised to jump from the roof of a building; horrified onlookers beg them not to. One agrees, and proceeds to take the

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42. The Gemara derives a very important article of belief when it addresses the issue of Torah leaders making mistakes. In *Gittin* 56b, the Gemara records the famous encounter between R. Yochanan b. Zaccai and the Roman general Vespasian during the siege of Jerusalem in 69 CE. At that time, when Vespasian heard that he had just been chosen as the new Roman emperor, he offered to grant R. Yochanan whatever he asked for. The rabbi requested that the Romans (a) spare the town of Yavneh and its yeshiva, (b) grant clemency for the *Nasi* Rabban Gamliel and his family, and (c) send for a doctor to heal R. Zadok, a saintly individual who had fasted for years. The obvious question is asked – why didn't R. Yochanan simply ask for the *Bet Mikdash* to be spared?! One of the answers tendered by the Gemara is most enlightening: the verse in Isaiah 44 says, "He turns wise men backwards *and makes their thinking foolish*." In other words, it was the Divine plan that the Temple be destroyed, and therefore *Hashem* deliberately prevented R. Yochanan from making the wise request which would have saved it from destruction.

We ordinary mortals, who are not blessed with the wisdom and insights of *Chazal*, cannot make such pronouncements regarding any specific episode or rabbinic advice. Nevertheless, we should take to heart the essential message that there are times when the Divine Will obscures an individual's wisdom.

In his *Mipeninai HaRav*, R. Herschel Shachter quotes Rav Soloveitchik as having expressed this sentiment also.

stairs in order to reach the street, but trips and breaks his neck. The other man decides to jump, but happens to land on a mattress on the back of a truck! Although the outcome for him was miraculously good (and even more so in the face of what happened to the other would-be jumper), yet it would be ridiculous to blame the onlookers for giving bad advice. The advice was wise, and the one who listened to them indeed chose the right path. The guidance of our Torah leaders, Rav Hutner concluded, is just that – Torah-inspired wisdom, but it is not prophecy, and it is not fail safe. Our rabbis are wise men, not prophets.<sup>43</sup>

Moreover, when two talmudic sages disagree, it does not mean one of them is wrong. The minority opinion in a halachic discussion is *not wrong*. There may be several acceptable options, but in actual practice, only one can become the universally followed mode – and that is the prerogative of the majority. This issue is discussed at length by the Ran in his commentary to the Talmud.<sup>44</sup>

There is a very famous but troubling episode recorded in the Gemara about a session of the Sanhedrin, where the sages were called upon to decide whether a certain object was *tameh* or *tahor* (*Bava Metzia* 59a). The majority voted that it was *tameh*, in opposition to the opinion of Rabbi Eliezer, who was so sure that it was *tahor*, that he called upon Heaven itself to confirm his opinion as correct – "Let the walls of the Study Hall prove" that he is right. The Gemara records that in response to his demand, the walls of the Study Hall indeed began falling down. Nevertheless, the rabbis in majority refused to concede. Finally, a voice from heaven (*bat kol*) even declared that Rabbi Eliezer was

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43. Heard by the author from the Rosh Yeshiva, Rav Hutner.

44. *Derashot HaRan* 3,5,11.

right – and yet the others stuck to their guns! Ultimately, the ruling remained as the majority had declared it.

This begs the question – if Heaven itself protests against their ruling, how in the world could they, or would they, stubbornly stick to it? In his exposition, the Ran offers a fascinating answer:

Behold, they [the majority] clearly saw that Rabbi Eliezer's position accords with the truth more than theirs...nevertheless, they proceeded to act in accordance with their majority opinion, inasmuch as *their* understanding led *them* to consider it *tameh*. And even though they realized that *their* understanding is opposite of the truth, they did not want to declare [the object] *tahor* but rather...they stuck to their decision to declare it *tameh* because if they had changed their decision, it would have been going against Torah teaching which gives the final decision to the scholars of each generation to rule in accordance with their understanding. And that which they rule, that is what G-d commanded.<sup>45</sup>

The Ran goes even further in his *Derasha* 11:

The matter is as follows, as we have already written, that *Hashem yitbarach* ceded the ruling on these [halachic] matters to the minds/hearts of the scholars of every generation, and He commanded us to follow them. Thus it results that whatever they agree to on one of these issues, that is what Moshe Rabbenu was commanded from the Mouth of G-d.<sup>46</sup>

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45. *Derashot HaRan*, No. 7.

46. This is also the opinion of Maharal, expressed in his *Gur Aryeh* commentary to Rashi on the verse in *Devarim* 17:11, which instructs us to follow and not deviate "neither to the right or left" from the teachings of our rabbis. "For He Who commanded in the Torah about prohibited or permitted [matters] also

And we must also believe that even if they agreed on something and it is the opposite of the truth – which we know to be so because a prophet tells us – nevertheless it is not proper for us to deviate from the agreed teachings of our *chachamim*.<sup>47</sup>

Based on the above, the author of *Ketzot HaChoshen* in his preface, as well as R. Moshe Feinstein *zt"l* in his preface to *Iggerot Moshe*, explain that the responsibility of the *talmid chacham* is to rule in accordance with his understanding of the Torah, even if objectively it may turn out to be the opposite of the truth!<sup>48</sup> The *posek* must rule in accordance with his own understanding of Jewish law; he has to proceed from a deep sense of reverence and fear of heaven, and do the best he can. Even so, concedes Rav Moshe, it is possible that he may err.<sup>49</sup>

If we accept that the majority opinion is "right", or at the least that it expresses the normative ruling which Jews

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commanded this – 'do not deviate from whatever they teach you.' Consequently, [if a person follows] whatever they [the rabbis of his generation] told him to do, he is acting totally with permission, since that is what the Holy One commanded... to follow their words in whatever they teach us...and He also put in the Torah not to deviate from their teachings...so that even if they made a mistake, you are acting correctly and are fulfilling a mitzvah of G-d." See also Abarbanel's commentary to *Parshat Shoftim*, note 8.

47. P. 198, *d.h.*, "*vehu amram*."

48. The Ritva, *Eruvin* 13b, essentially concurs with this position. However, see Rashi in *Ketubot* 57a as well as *Chavot Yair* No. 192. Further sources include the following: *Sh"ut Rivash* 447; Netziv, *Introduction to his Commentary to She'iltot*; *Introduction, Netivot Hamishpat*; *Introduction, Yam Shel Shlomo*; *Iggerot Moshe, Orach Chaim* IV, pp. 13, 43.

49. Ramban tackles this point in his commentary to *Devarim* 17:11; however, it is difficult to discern what his conclusion is.



should follow, that is not to label the minority view as "wrong." The Gemara has already pronounced that "*eilu ve'eilu divrei Elokim chayim*," both the majority *and* the minority opinions are the words of the Living G-d. However, only one view can be the normative ruling which should be followed in practice; this means that even if the rabbis "err" in their ruling, they are not telling us something "wrong." This principle is one of the reasons why the Talmud records not only the majority conclusion of Torah debates but the minority positions as well. Thus, great rabbis can disagree, and they can both be true to Torah principles.

If this is true (and it is) in matters of halacha, it also holds true in areas of *hashkafa* – ideology, attitudes to other nations, and questions of the direction which the Jewish community ought to take.

### **Assuming There Is *Daat Torah***

If, as we have seen, it is conceded even by the most fervent proponents that mistakes can be made, why is the type of authority imputed to *Daat Torah* seen as a positive force in Jewish society? The rationale for establishing some kind of last word in the halachic process is really quite straightforward:

...[I]nasmuch as it is impossible for human society [to function] without their making one of them the head over the others, for them to heed his directives and to observe his decrees. For people's opinions differ from one another and they will never all agree on how to proceed on any matter, and therefore it will result in a cessation of projects. Therefore, it is necessary that they accept the views of one of them, whether it is good or bad, so that they may succeed and proceed with their activities. At times, his plans will result in great benefit, and at times the opposite. But all this is better than controversy, which leads

to a total standstill [of any progress].<sup>50</sup>

Even if the leadership may occasionally sanction a wrong turn, it is better than no leadership at all, which only results in strife and stagnation.

*Sefer HaChinuch* (mitzvah 78) upholds the principle of everyone's following the same procedures: Were there no such rule, everyone would follow the Torah as he perceived the truth, resulting in the destruction of society, with "many Torahs" rather than one Torah, for each person would be bound to follow the truth as he saw it. Therefore the Torah has established the principle of majority rule, to promote unity of Torah observance and preserve the community.<sup>51</sup> This desideratum is so great that even if the leadership makes a mistake, the individual Jews who follow their instructions have done no wrong. As support for his thesis, the author notes that in case of error, it is the leadership, and not the community, which has to offer a penitential sacrifice.<sup>52</sup>

Perhaps we may say that in communal affairs, all must follow one decision, but in matters affecting only the individual, this is not so.

## Dissent

To what extent is the *Daat Torah* expressed by a *talmid*

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50. *Sefer HaChinuch* 71.

51. This desirability of uniformity extends only to communal practice, but still leaves room for the individual to follow the *Daat Torah* which he chooses.

52. This ruling has nothing to do with the one in *Rosh Hashanah* 24a, concerning an error made by the leaders, "even deliberately", because there it is speaking about a special rule concerning the sanctification of the New Moon.

*chacham* binding – are all Jews obligated to listen? Or perhaps only the specific group which he leads? Or is *Daat Torah* to be viewed only as wise counsel, with the individual retaining the option to reject?

Judaism does not generally demand intellectual subservience, and even a student may disagree with his teacher. While it is true that the Gemara says "whoever disagrees with his teacher, it is as if he were disagreeing with the Al-mighty,"<sup>53</sup> the intention here is not that he disagrees with his teacher's theses but rather that he tries to usurp his power or degrade his status. Even a great Torah scholar is not always right, and the serious student is entitled to challenge his reasoning.<sup>54</sup> As Ramo rules, "It is permitted for him [the student] to disagree with some ruling or teaching of his, if he can sustain his position and prove that the law is as he sees it."<sup>55</sup>

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53. *Sanhedrin* 110; *Yoreh Deah* 242:2.

54. The Talmud is replete with pronouncements of great rabbis, *Tannaim* and *Amoraim*, which are unhesitatingly challenged, dissected, questioned, and sometimes modified or outright rejected, whether by their contemporaries or later generations.

The *Seridei Eish* III:9 comments that nevertheless, one should approach the writings of earlier generations with a great deal of respect, working with the assumption that their Torah knowledge was far superior to ours. If something appears difficult, we should labor to understand it rather than discarding it.

55. *Yoreh Deah* 242:3. In support of his statement, the Gra cites the talmudic report that Rav Nachman argued with his teacher, and there is also a report of Rebbe disagreeing with Rabban Shimon ben Gamliel. And Tosafot, *Bava Metzia* 4b, d.h., "ain", indicate that Rabbi Akiva had students who challenged his opinion. *Terumat Hadeshen* 238 laconically notes that "this has been the way of [learning] Torah since the days of the *Tannaim*." *Pitchei Teshuva* further directs the reader to *Radvaz*, 495, and *Yaavetz* 1:5.

Rav Moshe Feinstein often remarked that he welcomed challenges to his rulings, for he was happy to see that in the community "there are people full of spirit, who are neither afraid nor embarrassed to criticize."<sup>56</sup> In a responsum addressed to his grandson, he remarks, "It is certainly not possible to say that I am always right, but all [my rulings] were composed and written with hard work and effort to understand the truth. Therefore I hope that the Al-mighty, Who graciously gives a person understanding, will help me."<sup>57</sup>

Rav Moshe Feinstein was once asked about the propriety of a *talmid chacham's* opening a yeshiva in Bnei Brak, home of the Chazon Ish, when the rabbi knew that at times he would take positions disagreeing with the opinions of that legendary sage. With his characteristic sweetness of character, Rav Moshe assured him that there would not be any problem with this, inasmuch as he cannot imagine that the Chazon Ish assumed no one would ever disagree with him! Moreover, as a lover of the truth, the Chazon Ish would certainly have rejoiced if a *talmid chacham* revealed depths of Torah which he himself had not seen.<sup>58</sup>

In this straightforward responsum, we see no hesitation about disagreeing even with a great sage, "albeit with proper respect." Which is to say that in the view of this great Torah luminary, ***Daat Torah is neither monolithic nor infallible. Nowadays there is no single group of all great Torah leaders, such as the Sanhedrin of old. In practice, then, people may choose (in personal, not communal matters) to follow the directives of this gadol or that gadol;***

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56. *Iggerot Moshe, Even HaEzer II:11*. See also *Iggerot Moshe, Yoreh Deah I:101*, p. 186.

57. *Ibid., Even HaEzer IV:18*.

the entire Jewish community is not bound to follow only one person, notwithstanding his great erudition, if there are others, equally great, who disagree.

There are of course many pitfalls inherent in the lack of one voice speaking for and directing all Jews (unfortunately, many of the dire possibilities are being realized in our communities today). If individuals are free not to follow the advice of Torah leaders, the practical reality is that anyone can rationalize whatever he wants to do; and that is very often not a good thing. On the other hand, everyone automatically following an ideology without stopping to think about it is also a troubling phenomenon.

## **Conclusion**

This study has sought to investigate whether Judaism indeed includes an ideology of *Daat Torah*, and I believe we have demonstrated that it does. Perhaps it is not as omniscient nor universal as some would want, but I do not think there is too much room for doubt on that issue.

In a personal comment, however, I find it distressing that some of our leaders often do not appear to have much faith in the Jewish people.<sup>58</sup> Some of the pronouncements or actions taken in the name of *Daat Torah* bespeak a suspicion that the Jewish community in America today, even the yeshiva-trained, observance-committed multitudes, have to be kept within very narrow parameters, or else they will lose their commitment. Issues are portrayed in black and white, with no shadings. History is revised,

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58. Unfortunately, this lack of confidence seems to extend at times even to individuals whose commitment to Torah values is unquestioned, even to individuals who have spent a lifetime immersed in Torah study. The implications are hard to rationalize.

books are censored, historic figures are idealized to the point of caricature, blanket prohibitions are issued – all seemingly out of fear that "if we give an inch, they will take a mile." It is painful to see that great scholars, even *Roshei Yeshiva*, whose opinions may be a little different, are not included in plenary councils of Torah leaders.<sup>59</sup> There seems to be an urgency to portray Jewish thinking as monolithic and beyond challenge.<sup>60</sup> Dissent comes close to being viewed as heresy.

And yet, on the whole, the Orthodox Jewish community today is blessed with many fine and committed people,

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59. *Ibid.*, *Yoreh Deah* III:88.

59. Rav Kook and Rav J.B. Soloveitchik come to mind, as well as other more recent Torah figures.

60. Every student -- and teacher -- in yeshiva knows that the Zionists are "wrong"-- but precious few could tell you why. They know it is "wrong" to demonstrate on behalf of the Jews suffering in Israel -- but they don't know why. I see this as a failure on the part of Jewish leaders to discuss and explain the issues on a mature, intelligent level.

In the *Jewish Observer* of December, 1986, there appeared an article entitled "The Enigma of Moses Mendelssohn", which discussed the life and beliefs of the father of the Enlightenment. The article, which was highly critical of Mendelssohn, particularly because he failed to follow the advice and decisions of Torah scholars, noted however that although most of his children and grandchildren converted to other religions, he personally was an observant Jew all his life. This article caused such an "outcry", that in the next issue of that periodical, the Chairman of the Board of the *Observer* printed a "mea culpa", apologizing for the article's positive mention of Mendelssohn, whose name is generally anathema in Orthodox circles. In addition, the *Observer* printed the comments of the Novominsker Rav castigating Mendelssohn; these comments, it noted, were expressed at the specific request of the Moetzes Gedolei Hatorah of Agudath Israel.

who are not ignorant either of the Torah or of secular matters. I think they could handle serious discussions of communal issues, or appreciate in-depth explanations of certain aspects of current *hashkafa*. Most importantly, I think it is time we remembered that Judaism has never demanded a unitary view; dissent and open discussion have always characterized Jewish scholarship. Disagreeing with someone is not heresy, nor even rejection of *Daat Torah*. There are many who seek to be enlightened. They are not challenging *Daat Torah* – they just want to understand it better, so as to incorporate and integrate the thinking of Torah greats into their own approach to Jewish belief and practice.