Authority and Dissent: A Discussion of Boundaries

View PDF



Rabbi Marc D. Angel is Founder and Director of the Institute for Jewish Ideas and Ideals, and Senior Editor of Conversations. This article originally appeared in Tradition, volume 25, winter 1990, when Rabbi Angel was serving as President of the Rabbinical Council of America. It was reprinted in Seeking Good, Speaking Peace: Collected Essays of Rabbi Marc D. Angel, ed. Rabbi Hayyim Angel, Ktav Publishing House, Hoboken, 1994, pp. 11–23; and appears in issue 30 of Conversations, the journal of the Institute for Jewish Ideas and Ideals.

Diversity of opinion is a reality well recognized in Jewish tradition. The Talmud (*Berakhot* 58a) records the ruling that one is required to make a blessing upon seeing a huge crowd of Jews, praising God who is *hakham haRazim*, who understands the root and inner thoughts of each individual. "Their thoughts are not alike, and their appearance is not alike." Just as no two faces are exactly the same, so no two people think exactly the same. God created each individual to be unique; He expected and wanted diversity of thought.[1]

The recognition that each person thinks differently leads to a respect for the right of a person to express his or her opinion. This notion is dramatically underscored in the laws relating to a *zaken mamre*, a rebellious elder. The elder (rabbinic scholar) is not deemed guilty for teaching opinions contrary to the rulings of the Great Court; he is only punishable if he instructs people to defy those rulings.[2] It is also reflected in the talmudic practice of recording minority opinions, even though the law follows the consensus of the majority.[3] Even rejected opinions are entitled to respect.

Yet, although Judaism respects diversity of opinion and allows considerable freedom of expression, it also sets some boundaries beyond which a person may not trespass. One may not believe in the divinity of idols. One must believe that the Torah is from Heaven. Indeed, Maimonides listed 13 principles of faith that a Jew must accept. If not, one forfeits a portion in the world to come.[4] We are not free to follow our intellect if it leads us to incorrect beliefs. Our intellectual freedom, thus, is

limited by the authoritative beliefs taught by the Torah and our sages.

Within the boundaries of normative Judaism, dissent is respected and even encouraged. But beyond those boundaries, dissent is not tolerated. Intellectual freedom gives way to the authority of tradition. A problem arises: What exactly are the boundaries established by tradition? A variety of attempts have been made over the centuries to establish the principles of Judaism from which one may not dissent.[5] There are certain tenets of faith that may not be denied.

Yet, within the framework of Jewish law and thought, there is considerable room for responsible differences of opinion. When the right to express responsible opinions is negated, Judaism suffers. In a fascinating responsum, Rabbi Naftali Tsevi Yehudah Berlin—the Netsiv—reminded his readers that during the time of the Second Temple, the Jewish people was divided between the *Perushim* and *Tsedukim*. Competition between the groups was intense. The situation became so bad that *Perushim* branded as a *Tseduki* anyone who deviated even slightly from prevailing practice. To dissent from the predominant opinion led to one's being ostracized. The Netsiv applied the lesson to his own time:

> It is not difficult to imagine reaching this situation in our time, Heaven forbid, that if one of the faithful thinks that a certain person does not follow his way in the service of God, then he will judge him as a heretic. He will distance himself from him. People will pursue one another with seeming justification (*beHeter dimyon*), Heaven forbid, and the people of God will be destroyed, Heaven forfend.[6]

The Netsiv was concerned that self-righteous individuals were attempting to suppress the opinions of others. In the name of Torah, they sought to discredit others—even branding them as heretics. Yet, Jewish tradition respects the right and responsibility of individuals to express opinions that are fully based on proper Torah authority—even when those opinions differ from those popularly held. Rabbi Yehiel Michel Epstein, author of the *Arukh haShulhan*, noted that differences of opinion among our sages constitute the glory of the Torah. "The entire Torah is called a song (*shirah*), and the glory of a song is when the voices differ one from the other. This is the essence of its pleasantness."[7]

II

The boundaries of dissent and authority are not always obvious. Let us consider several specific issues, one in the realm of halakha and one in the realm of *aggada*. The *Shulhan Arukh* rules (*Yoreh Deah* 242:2, 3) that one who dissents (*holek*) from his rabbi is as one who dissents from the Shekhinah. The *holek al rabbo* is defined as one who establishes his own yeshiva and sets himself up as teacher without getting his rabbi's permission. The Rama adds: "but it is permissible for him to dissent from (his rabbi's) ruling or teaching if he has proofs and arguments to uphold his opinion that the law is according to him (rather than his rabbi)."

This halakha deals with the balance between authority and dissent. On the one hand, a student must respect the authority of his teacher and not try to establish himself as an authority on his own. This would undermine the status of his teacher. On the other hand, if the student has strong proofs to support a halakhic ruling against his teacher, he may disagree with him. Rabbi Hayyim Yosef David Azulai, in his *Birkei Yosef*, cited the opinion of the Radhaz that a student may disagree with a ruling of his teacher but should not publicize the disagreement nor write a contrary *pesak* for distribution.[8] The students of each generation had disagreements with their teachers, and did present their proofs and refutations to them. To be sure, students are obligated to present their cases respectfully and reverentially. Their purpose must be to establish the truth, not to aggrandize themselves nor demean their rabbis, Moreover, we are speaking of students who have reached a very high level of Torah learning, and whose opinions deserve serious consideration.

Rabbi Hayyim David Halevy has stated:

> Not only does a judge have the right to rule against his rabbis; he also has an obligation to do so (if he believes their decision to be incorrect, and he has strong proofs to support his own position.) If the decision of those greater than he does not seem right to him, and he is not comfortable following it, and yet he follows that decision (in deference to their authority), then it is almost certain that he has rendered a false judgment (*din sheker*).[9]

Rabbi Yaacov Emden ruled that students should question their rabbis' teachings as best as they can. In this way, truth is clarified.

> In regard to legal decisions, not only is the student allowed to reveal his opinion and proofs to refute the words of his rabbi, but he is also obligated to do so. He should not remain silent in such a situation in deference to the honor due his rabbi; the honor due to the Torah is greater. [10]

The issue of dissent from one's rabbis extends back in time to dissension from the rulings of sages of previous generations. Certainly, the earlier sages are granted greater authority than the later sages. Rabbi Yehiel Yaacov Weinberg wrote that proper Torah methodology involves serious analysis of the writings of the *aharonim*, including evaluation and criticism of their statements. Yet, in matters of *pesak* we may not dissent from their rulings. In the areas of opinion and explanation, though, we do have the right to offer new insights "because each Jew whose soul was at the revelation at Sinai received his portion in Torah and in novellae of Torah. One should not quibble against this point."[11]

Rabbi Hayyim Palachi wrote that "the Torah gave permission to each person to express his opinion according to his understanding. . . . It is not good for a sage to withhold his words out of deference to the sages who preceded him if he finds in their words a clear contradiction. . . ." Moreover, "a sage who wishes to write his proofs against the kings and giants of Torah should not withhold his words nor suppress his prophecy, but should give his analysis as he has been guided by Heaven. [In this situation,] one does not give honor to the rabbi, for this is Torah and I must study it." Rabbi Palachi noted that even though Maimonides certainly wrote with Divine inspiration, nevertheless many great sages of his generation attacked him and criticized his work. There are numerous examples of students refuting their teachers: Rabbi Yehudah Hanasi disagreed with his father; the Rashba disagreed with the Ramban. The Tosafists disagreed often with Rashi. Respect for authority does not mean that one may not hold opposing opinions.[12]

Rabbi Moshch Feinstein, in one of his responsa, expressed disagreement with an opinion of Rabbi Shelomo Kluger. In rejecting that opinion, Rabbi Feinstein wrote: "But it is certain that I am right (*ha-tsedek iti*) and that the words of Rabbi Shelomo Kluger-with all due respect-are nothing (*einam kelum*). One must love truth more than anything."[13] In another responsum, Rabbi Feinstein replied to a rabbi in Benei Berak, who worried because he sometimes taught opinions contrary to those of the Hazon Ish, who was the rabbi of that vicinity. Rabbi Feinstein pointed out that it was not at all disrespectful for the rabbi to study and quote the words of the Hazon Ish, even if he disagreed with some of them. On the contrary, that is the honor of Torah—to have words taken seriously and evaluated seriously. It could not have occurred to the Hazon Ish that there would never arise rabbis who would disagree with his teachings. Rabbi Feinstein concluded by saying that one is certainly allowed to question and disagree with the sages of our generation, even the greatest sages, as long as one does so respectfully, and with proper halakhic justification.[14]

Rabbi Yosef Hayyim of Bagdad, in the introduction to his *Rav Pe-alim*, stressed the need to be exceedingly respectful of the sages of previous generations. He opposed attacking the opinions of those sages. But it is obvious that even great sages make errors. Yet, when one offers a critique or correction of the words of sages, he should not do so with any sense of personal pride or vanity. He should be humble, aware that even great sages may overlook a source or miss a particular point.[15]

From this discussion, we see that responsible and respectful disagreement is a legitimate and necessary aspect of the halakhic system. Views that can be properly substantiated, even if they conflict with views of greater and earlier authorities, deserve to be heard. One cannot properly be called an *apikores* simply because he holds a position which differs from others. On the contrary, his position should be carefully evaluated. If it is wrong, it should be criticized and rejected. If it is right, it should be accepted in spite of the greatness of authorities who held a different opinion.

The boundary of legitimacy is not what one individual or group defines it to be. Rather, one may offer his insights and opinions as long as they do not go beyond universally accepted principles of Jewish faith, and as long as they are properly and correctly substantiated by authoritative sources. The halakhic system depends on intellectual inquiry, receptivity to the positions of others, devotion to truth, humility, respect for authority. It is not appropriate to outlaw responsible and respectful criticism of authorities nor to discredit those who offer properly substantiated opinions, even when those opinions dissent from leading authorities.

III

The balance between authority and dissent may also be considered in the realm of *aggada*. One opinion is that all the words of our talmudic (and even later) sages are true and must be upheld. Another position is that the words of our sages must be treated with respect, but that we are not bound to believe that all their aggadic teachings are without error.

Does the authority of our sages preclude the possibility of legitimate disagreement with their aggadic teachings? Is someone who questions or rejects some of those teachings an *apikores*?

In the sixth chapter of *Pirkei Avot*, we are taught that the Torah is acquired in 48 ways. One of them is *emunat hakhamim*, trust in the sages. Rabbi Yosef Yaavets, one of the rabbis at the time of the expulsion of Jews from Spain, explained that one must not hasten to criticize the words of our sages. If he does not understand or agree with their words, he should attribute the problem to his own intellectual weakness. "He should suspect his own intelligence, not the intelligence of our sages and their words, which were spoken in truth."[16]

Following this attitude in the realm of *aggada*, Rabbi David Ibn Abi Zimra, a younger contemporary of Rabbi Yaavets, taught that the *aggada* is true and essential, "given from Heaven like the rest of the Oral Torah. And just as the Oral Torah is interpreted with 13 principles, so the aggada is interpreted with 36 principles. And these principles were transmitted to Moses our teacher at Sinai."[17]

Rabbi Moshe Hagiz wrote an important essay on *emunat hakhamim*, in which he argued forcefully against challenging rabbinic authority by questioning the validity of any of the words of our sages. He believed that an attack on rabbinic dicta would ultimately lead to a rejection of rabbinic authority generally. This would undermine religious observance and belief.[18]

Rabbi Hayyim Hizkiyahu Medini, in his *Sedei Hemed*, stated unequivocally: "We must believe in all that is stated in the aggadot of our sages."[19] Rabbi Zvi Hirsch Chajes followed this assumption when explaining that

> there are several subjects in the Gemara whose meaning cannot be taken in a literal sense, because the text expounded literally would depict God as a corporeal being, and would also at times involve an act of blasphemy. We should, and we are, indeed, in duty-bound to believe that the transmitters of the true Kabbalah, who are known to us as righteous and saintly men and also as accomplished scholars, would not speak merely in an odd manner. We must therefore believe that their words were uttered with an allegorical or mystical sense and that they point to matters of the most elevated significance, far beyond our mental grasp.[20]

The demand that one must believe all the words of our sages in the *aggada* came into question in the famous disputation in Barcelona in 1263. Rabbi Moshe ben Nahman, the Ramban, was challenged by his Christian opponent with an *aggada* that stated that the Messiah was born on the day that the Temple in Jerusalem was destroyed. The Ramban responded: "I do not believe in this *aggada* at all. . . ." He went on to explain that Jewish religious writings are divided into three traditional categories: Bible, Talmud, and Midrash. "The first we believe entirely. . . ; the second we believe when it explains laws. We have yet a third book which is called Midrash, sermons so to speak . . . ; and this book, if one wishes to believe it he may, and one who does not believe it does not have to. . . . We call it a book of *aggada*, which is to say discourses, that is to say that it merely consists of stories which people tell one another."[21]

This explanation of the Ramban was rejected by those who insisted on maintaining the truth of all the words of our sages. Some argued that the Ramban never meant what he said, that he only said it to deflect the challenge of his opponent. Thc *Sedei Hemed* wrote that it is forbidden even to think that the Ramban meant what he said. Writing over two centuries after the disputation, Rabbi Yitzhak Abravanel strongly disavowed the statement of the Ramban because "it opens the gates to undermine all rabbinic authority when we consider any of their words as errors or foolishness."[22]

The above position assumes that respect for our sages demands that we not dissent from nor find fault in their words. Should we do so, we undermine their authority. If we find some of their aggadic teachings problematic, we should not reject them, but should assume that we have not understood their true meaning.

But there is another position, also well rooted in authoritative rabbinic sources. Rabbi Hai Gaon taught that the *aggada* should not be considered as divinely revealed tradition. The authors of *aggada* were merely stating their own opinions, and "each one interpreted whatever came to his heart." Therefore, "we do not rely on them (the words of aggada)." Rabbi Hai Gaon maintained that *aggadot* recorded in the Talmud have more status than those not so recorded—but even these *aggadot* need not be relied upon.[23] Rabbi Sherira Gaon taught that *aggada*, Midrash, and homiletical interpretations of biblical verses were in the category of *umdena*, personal opinion, speculation.[24] Another of the Gaonim, Rabbi Shemuel ben Hofni, stated: "If the words of the ancients contradict reason, we are not obligated to accept them."[25]

This position was also expounded by Rabbi Shemuel HaNaggid in his introduction to the Talmud. He wrote that *aggada* represents the personal opinions and interpretations of our sages. Rabbi Abraham, son of Maimonides, in an important essay concerning *aggada*, maintained that one may not accept an opinion without first examining it carefully.[26] To accept the truth of a statement simply on the authority of the person who stated it is both against reason and against the method of Torah itself. The Torah forbids us to accept someone's statement based on his status, whether rich or poor, whether prominent or otherwise. Each case must be evaluated by our own reason. Rabbi Abraham stated that this method also applies to the statements of our sages. It is intellectually unsound to accept blindly the teachings of our rabbis in matters of medicine, natural science, astronomy. He noted: "We, and every intelligent and wise person, are obligated to evaluate each idea and each statement, to find the way in which to understand it; to prove the truth and establish that which is worthy of being established, and to annul that which is worthy of being annulled; and to refrain from deciding a law which was not established by one of the two opposing opinions, no matter who the author of the opinion was. We see that our sages themselves said: if it is a halakha (universally accepted legal tradition) we will accept it; but if it is a ruling (based on individual opinion), there is room for discussion."

This is not to say that the words of our sages should not be taken seriously. On the contrary, statements of great scholars must be carefully weighed and respected. But they may also be disputed, especially in non-halakhic areas. In his introduction to *Perek Helek*, Maimonides delineates three groups, each having a different approach to the words of our sages. The majority group, according to Rambam, accepts the words of our sages literally, without imagining any deeper meanings. By taking everything literally—even when the words of the sages violate our sense of reason—they actually disparage our rabbis. Intelligent people who are told that they must accept all the midrashim as being literally true will come to reject rabbinic teaching altogether, since no reasonable person could accept all these teachings in their literal sense. "This group of impoverished understanding—one must pity their foolishness. According to their understanding, they are honoring and elevating our sages; in fact they are lowering them to the end of lowliness. They do not even understand this. By Heaven! This

group is dissipating the glory of the Torah and clouding its lights, placing the Torah of God opposite of its intention."

Maimonides described the second group as also taking the words of the sages literally. But since so many of the statements of the rabbis are not reasonable if taken literally, this group assumes that the rabbis must not have been so great in the first place. This group dismisses rabbinic teachings as being irrelevant, even silly. Rambam rejected this point of view outright.

The third group, which is so small that it hardly deserves to be called a group, recognizes the greatness of our sages and seeks the deeper meanings of their teachings. This group realizes that the sages hid profound wisdom in their statements, and often spoke symbolically or in riddles. When one discovers a rabbinic statement that seems irrational, one should seek its deeper meaning. While Rambam argued forcefully for a profound understanding of *aggada* and Midrash, he did not argue that all rabbinic statements are of divine origin. Rather, they are worthy of serious study because they represent the thinking of great sages. Presumably, his son Abraham carried his argument further. When one found rabbinic statements to be unreasonable or incorrect—even after much thought and investigation—he was not bound to uphold them.

Rabbi Samson Raphael Hirsch echoed the opinion of Maimonides and his son. He wrote that "aggadic sayings do not have Sinaitic origin . . . they reflect the independent view of an individual sage."[27] Rabbi Hirsch went on: "Nor must someone whose opinion differs from that of our sages in a matter of *aggada* be deemed a heretic, especially as the sages themselves frequently differ. . . ." He rejected the opinion that the authority of *aggada* is equal to the orally transmitted halakha. Indeed, he thought this was "a dangerous view to present to our pupils and could even lead to heresy."

Rabbinic tradition, thus, has two valid approaches to the authority/ dissent issue in the realm of *aggada*. Rabbi Hayyim David Halevy has written a responsum which offers a balance between the two positions.[28] He noted that there are Midrashim where sages disagree with each other. For example, the Torah records that following the death of Yosef, a new Pharaoh arose over Egypt. Rav interpreted this verse to mean that an actual new Pharaoh arose. Shemuel, though, maintained that it was the same Pharaoh who now made new decrees against the Israelites (*Sotah* lla). It is impossible for both of these opinions to be objectively correct. Obviously, each offered his interpretation, based on his own understanding of the text.

Moreover, there are topics about which the sages spoke, not relating specifically to the Torah and its interpretation-in which they expressed their own opinions. The statements of our rabbis concerning natural science, for example, were not divinely revealed traditions. In fact, our sages admitted that the wise men of the non-Jews had greater knowledge than the Torah sages in some scientific matters (*Pesahim* 94b). Rabbi Halevy wrote: "If it becomes clear through precise scientific methodology that a specific idea expressed by our sages is not entirely correct, this does not mar their greatness, Heaven forbid, and their greatness as sages of Torah. Their words relating to Torah were stated with the power of the holiness of Torah, with a kind of divine inspiration; but their other words on general topics were stated from the depth of their human wisdom only." In non-halakhic matters, we should recognize that the sages spoke with great wisdom, although not necessarily with divine inspiration. Therefore, there were disputes among them such as the one concerning the new Pharaoh, where it is clear that one side is wrong.

While respecting the authority and wisdom of our sages, we also must recognize the possibility that some of their non-halakhic statements and interpretations are incorrect. To say this does not make one an *apikores*. Great sages, as mentioned above, have themselves taught this opinion and have considered it to be correct and authoritative.

It is clear, then, that there is room for dissent and criticism within the halakhic and aggadic systems. This dissent and criticism must be based on great reverence for our sages; on properly substantiated and argued positions; on commitment to the honor and divine origin of Torah. Dissent may not go beyond the universally accepted principles of our faith. But within this boundary, freedom of inquiry, analysis and criticism must be respected-and encouraged.

Notes

[1] See also *Bemidhar Rabba, Pinehas* 21:2; *Tanhuma. Pinehas* 10. An excellent discussion of intellectual freedom in Jewish tradition was written by Menahem Elon in *Piskei Din Shel Beit Hamishpat Ha-e!yon Le-Yisrael*, Vol. 39, section 2, Jerusalem, 1983, pp. 291–304.

[2] Maimonides, *Mishneh Torah, Hilkhot Mamrim*.

[3] See *Tosefta* on *Eduyot* 1:4 and 1:5; and *Eduyot* 5:6.

[4] Maimonides, Introduction to *Perek Helek*; a good discussion of the medieval understanding of principles of faith is by Menachem Kellner, *Dogma in Medieval Jewish Thought*, Oxford University Press, New York, 1986.

[5] See Kellner's book, *ibid*.

[6] *Meshiv Davar*, Warsaw. 5654, no. 44. A contemporary author, the "Dehrocziner Rav," in his *Be-er Mosheh*, nos. 3 and 6, has written that it is forbidden to study Torah from a rabbi who is a Zionist or who studied at Yeshiva University. For him, the boundaries of faith are quite limited, and exclude a considerable number of pious and righteous scholars. His responsa reflect the problem which the Netsiv described, and are testimony to the spiritual troubles in which Orthodoxy finds itself.

[7] *Arukh Ha-Shulhan*, introduction *Hoshen Mishpat*.

[8] *Birkei Yosef* on *Yoreh Deah* 242:3.

[9] R. Haim D. Halevy, *Asei Lekha Rav*, vol. 2, Tel Aviv, 5738, no. 61.

[10] *Sefer She-elot Yaavets*, Jerusalem, 5731, vol. 1, no. 5.

[11] *Seridei Esh*, vol. 3, Jerusalem, 5726, introduction.

[12] *Hikekei Lev*, vol. 1, Salonika, 5600, *Orah Hayyim* no. 6 and *Yoreh Deah* no. 42.

[13] *Iggrot Moshe*, New York, 5719, *Orah Hayyim* 1:9.

[14] *Iggrot Moshe*, Brooklyn, 5742, *Yoreh Deah* 3:88.

[15] *Rav Pe-alim*, Jerusalem, 5661.

[16] *Kol Sifrei Rabbi Yosef Yaavets*, vol. 2, Jerusalem, 5694, p. 149.

[17] Responsa of Radbaz, New York, 5727, vol. 4, no. 232.

[18] *Mishnat Hakhamim*, Brooklyn, 5624, section 23.

[19] *Sedei Hemed Hashalem*, vol. 1, New York, 5722, p. 192.

[20] *The Student's Guide to the Talmud*, London, 1952. p. 201. See also his discussion on pp. 208f.

[21] See C. Chavel's edition of the *Vikuah* in *Kitvei Rabbeinu Moshe ben Nahman*, 1963, vol. 1, pp. 306–308.

[22] *Yeshuot Meshiho*, 1812, p. 9b.

[23] See *Otsar Ha-Geonim*, ed. B. M. Lewin. Jerusalem, 5692, vol. 4 (*Hagigah*), pp. 59–60.

[24] *Ibid*., p. 60.

[25] *Ibid*., pp. 4–5.

[26] The *Ma-amar Odot Derashot Hazal* is printed in the introductory section of the *EinYaacov*.

[27] See Joseph Munk, "Two Letters of Samson Raphael Hirsch, a Translation," *L'Eylah*, April, 1989, pp. 30–35.

[28] R. Haim D. Halevy, *Asei Lekha Rav*, Tel Aviv, 5743, vol. 5, no. 49.