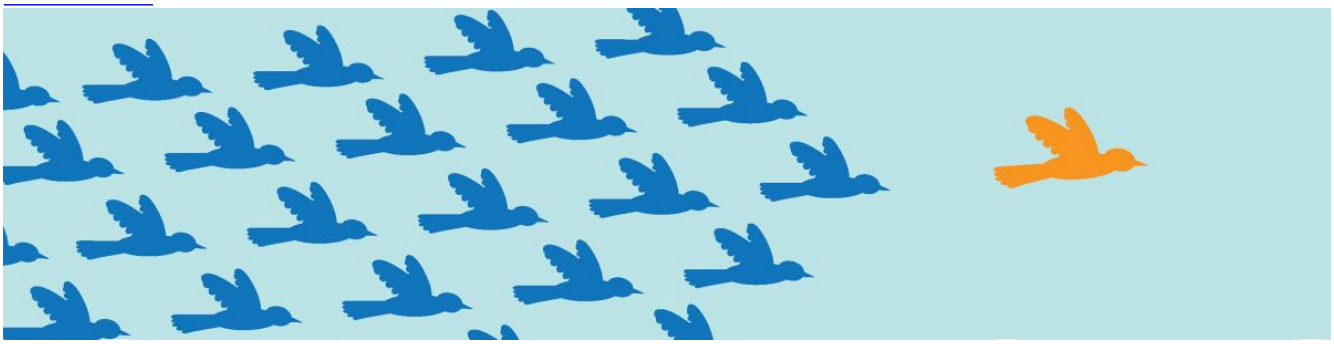
The State of the Jewish Polity: a Modern Orthodox Perspective

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I. The Jewish Leader

The Jewish leader represents the Jewish cultural ideal. The Jewish leader must be one of the people—we may not appoint a king who is not one of our own—but whose vision, knowledge base, and moral compass are all in order. We can identify three typological Orthodox rabbinic models, which we will compare to each other and to the contours of the rabbinic sacred literary canon: the charismatic commander, the cookie cutter coward, and the covenant creator.

The charismatic commander supersedes the rabbinic sacred canonical library. In Ashkenazi medieval rabbinic Hebrew, this person was called a *godol,* or great one, by Tosafot and Raabad, whose stature and office command authority. Maimonides disagreed, claiming that the *gadol* is the honorific head of the court, and it is the **object** of the court, the reasoned rulings that are issued and not the charisma of the **person**, that is Jewishly normative. Since it has been decided that "we do not follow Maimonides' opinions," for these "charismatic commander" rabbis, rabbinic authority indeed resides in the rabbinic **person**, who is alone allowed to read the rabbinical **sacred library** and to divine for today God's will. We do not rule according to the Bible, Talmud, or Codes. We must rule in accord with the intuitively endowed and divinely guided master of charisma, who by dint of divine inspiration is not going to err against the will of God. It is no accident that the Hareidi ArtScroll book on *Rishonim* [Early rabbis] views the mystical charismatic, Nahmanides, as "more" traditional, and therefore more theologically compelling, than the rational philosophical legalist who wished to empower all Israel, notably, Maimonides.

This charismatic commander ideology is manifest in the legal decisions of Rabbi Moses Feinstein and in thought of Rabbi Elchonon Wasserman. Even though one may not do an act to endanger one's life, it is improper, according to Rabbi Feinstein, to argue that smoking cigarettes is forbidden because "great rabbis smoke." Even though classical Jewish law explicitly outlaws eating in a sanctuary not designated as a Study Hall, or **Bet Midrash,** one may not claim that eating in a sanctuary violates Jewish law because Hassidim, the "most" Orthodox of the Orthodox, do it. Conversely, even though the **bat mitsva** celebration violates no explicit Talmudic statute, it must be avoided because the wrong

rabbis invented the rite, i.e., the "Reform." [For the record, it was invented by the Reconstructionist founder, R. Mordecai Kaplan]. Rabbi Wasserman believes that Jewish moderns are blinded by secularity and suffer from cultural vertigo. We are too guilty of assimilation to make innocent readings and applications of Israel's sacred library. Israel may have been given the Torah, but only those uncorrupted by modernity and secularity are sufficiently innocent, religiously honest, learned, and therefore capable of intuiting God's will correctly.

Since charismatic commanders claim to possess an intuition greater than other rabbis, not to mention lay people, their criticisms are deemed constructive and appropriate. They possess the requisite *gravitas* to criticize and, if needed, to condemn the error of others, especially those who wish to accommodate modernity, secularity and Judaism, dismissing the good old ways from the good old days. Criticism of these rabbis is categorized as slander, in Hebrew, *motsi shem ra*, inappropriate and indeed forbidden to lesser light rabbis and their "illiterate" laity. If one has the misplaced, misinformed, and unfortunate audacity to challenge the charismatic commanders, he/she is to be accused of *godol* bashing, because in the hierarchical scheme of charismatic commanders, the great rabbis are not subject to peer review because they do not accept the contentious claim that they have peers. And if these accusers assert that Maimonides, in the Laws of Torah study, allows the respectful dissent of calling polite attention to the apparent dissonance between what the great rabbis rule [e.g. smoking and eating in the synagogue are allowed, *bat mitsva* is disallowed] and what the canon explicitly commands, forbids, and when silent, legitimates, validates, and permits, the accuser is reminded that "we do not rule according to Maimonides." We rule in accord with the conscience of the right rabbis, the charismatic commanders, the *gedolim*.

II. **The Cookie Cutter Charismatic Rabbi**

In order to help benighted laypeople recognize who is in fact the right rabbi, there is a "traditional" form of dress that that must be worn so that the theologically correct address may be rightly identified. The dark suit or the long caftan have, by dint of usage, been grafted on to "Tradition." The Maimonidean rules of dress, that one dress neatly, cleanly, and without calling undue attention to oneself, are ignored because "we do not rule according to Maimonides." The occasion when the Jewish male is advised but not formally obliged to dress in black according to Talmudic law goes delicately and appropriately uncited.

The ideology of the charismatic commander is expressed throughout Agudath Israel publications but, ironically, it was put most clearly by a rosh yeshiva at Yeshiva University in his tape, "The P'sak Process," and his postings at www.torahweb.org. Citing the great sage, Rabbi Joseph B. Solovetichik of blessed and sainted memory, he argues that there are "marriage" rabbis who are "married" to the Torah and able to understand the Torah intimately, as married spouses understand and intuit the wishes of their partners. These rabbis are authorized to rule "from the gut" because they are informed by the mass of Torah information that they have accumulated and their familiarity with the Torah's secret concepts, axiological ideals, and unrecorded inner spirit guides them with an almost infallible sense of right. While these rabbis are authorized to rule without reason from intuition, their students, being religiously committed but not blessed with the right intuition of Torah intimacy, are "mere policemen, not *posekim"* and are authorized to enforce but not to decide rabbinic laws. Because lower grade rabbis are "engagement" rabbis, whose relationship with Torah is not yet intimate, they are not stockholders in Torah and have no right to express a reasoned opinion because the Torah's inner spirit is unknown to them.

The *godol*, or great rabbi's learning is creative and is called *lomdus*, a word unattested either in the sacred rabbinic canon or in the record of medieval Hebrew literature. The *lomdus* of the charismatic commander is the search for and creation of new definitions which carry culture valence, which

enshrine as Torah the inherited culture of the past. [Raabad but not Maimonides or R. Caro to Tur Hoshen Mishpat 25]. Judaism is in fact no more and no less than the **consensus** of the charismatic commander clique of rabbis.

These rabbis have ruled that women should not become synagogue presidents, and that women's *hakafot* or holding the Torah while encircling the synagogue on Simhat Torah defy tradition, and we may not make changes in the good old ways that we have inherited from the good old days. The fact that dissenting opinions may be found in the sacred library is irrelevant to them. The expected is accepted, right and wrong are determined by "divinely inspired" intuition, not in the reasons of a debased, biased laity who are corrupted by modernity, or a corrupted modern Orthodox rabbinate that mistakenly claims that it is sufficient to live Judaism "by the book."

III. The Covenant Creator Modern Orthodox leader

Modern Orthodox dissent is, to the adherents of the charismatic commander view, disrespectful to great rabbis, or *gedolim*, because the dissent of lesser lights is disrespectful to the greater lights. And modern Orthodox rabbis, by dint of their being "corrupted" by modernity, are too biased to have a faith-based opinion. After all, they do not have a "marriage" relationship with Torah and therefore have no right to have an opinion.

The modern Orthodox leader is simultaneously Orthodox and modern. Orthodoxy provides the diachronic dimension, the covenantal and creedal commitments, the defining transcendental ideals and unmovable resolute respect for God. Applied to the synchronic realities we inhabit, Torah is imposed upon modernity as the mathematical formula is imposed upon and makes meaning out of raw data. This leader can read Hebrew and the Jewish canonical library. So this leader knows the difference between what the Torah prescribes and what people say Torah prescribes. A heretic violates explicit, canonical beliefs. Calling a rabbi a heretic, without identifying the explicit, unchallenged rule in the canon, renders the accuser heretical for the sins of slander, lying, and misrepresenting Torah. Judaism has no belief in an absolute Scriptural literalism. It should be surprising then that Rabbi Sholom Eliashiv held that believing in evolution is heresy, as though the first chapter of Genesis must be understood in a simplistic literal sense.

According to Maimonides' theory, God, having no body, would not have a nose to become hot when angry, in spite of the plain sense of Scripture. If we are hyper-literal, we may become heretical. Yet these literalisti rabbis forbid women's singing and do not take literally Judges 5:1, which informs the reader that Deborah sang with Barak. The issue at hand is not what the Torah teaches, but who has the right to do the teaching. For those who present themselves as Torah faithful fundamentalists who are culture police, a blind submission to their authority creates cookie cutter Judaism, which when challenged, crumbles.

The modern Orthodox leader is comfortable in the timeless Torah and is not threatened by ever changing secular realities, using the former to inform and then sanctify the latter. Realizing that the so-called literalist or fundamentalist is only selectively literal, the modern Orthodox leader's learning and respect for God will provide the courage to be Orthodox **and** modern, and resist those who stifle religion in an authoritarian box. By resisting wrong, be that wrong from the Left or Right, modern Orthodox leaders make the Covenant real. For this Covenant Maker rabbi, creed trumps culture, principle controls and is not controlled by persons, and respect for God and God's image that is invested in every human being overwhelms the forces of confusion, intimidation, and injustice.

IV. Orthodoxy and the Jewish Left

Professor Gerald Bubis once distinguished between the Jewish lay elite, who are power brokers, and rabbis, who are **berakha** brokers. Both liberal and Orthodox clergy are paid to say what the Jews in their pews demand for their dues. In liberal Judaism, membership payments purchase Jewish identities. And in compensation for compensation paid, lay people expect to be validated. Egalitarianism is determined to be ethical, and since the Orthodox are not egalitarian, they are therefore "unethical" and represent phony religion. By defining Orthodoxy as immoral and liberal Judaism as moral, and by defining religion as morality, a verbal mind game is played that legitimates the Jewish Left, to its own satisfaction. Never mind that most liberal Jews do not see themselves as religious, even according to their own definition. Reform rabbis who will not accept intermarriage or patrilinearity will not be hired and will be excluded from power within the movement. Traditional Conservative rabbis were not permitted to function; Jewish law unambiguously defines the *minyan* as ten adult males and forbids eating cooked food in non-kosher establishments. The pressure of the market moves professional women and men to conform in order to hold office, wield power, and draw a salary.

Orthodox Judaism chooses different issues than liberal Judaisms, but is no less rigid and coercive when demanding compliance from its cookie cutters. It has created a market-generated rabbinic model of "cookie-cutter cowards" who want to be accepted and say only expected statements, who willingly accept as true the commands of the charismatic commanders, even though they may realize that parochial policy is presented as law. If one marches to one's conscience, one becomes "controversial," is seen as irresponsibly idiosyncratic, and implicitly illegitimate and unorthodox. We recall that "official" or *de jure* covenant is a religion of law, but the actual religion of cookie cutter Orthodoxy is one of consensus. This Orthodoxy talks the religion of covenant but lives the religion of consensus. Universal practice has become "*minhag Yisrael*," which is seen by some as having the status of Torah. Torah is in Judaism no less than the command of God and not the will of the people. Yet this doctrine, reflective more of a parochial reconstructionism than authentic rabbinic culture, is enforced by the need to fit in. Note how the idiom's original meaning in Maimonides' Mishneh Torah, has been reconstructed. For Maimonides, *minhag Yisrael* is a custom, accepted **as** a custom by all and not some of Israel, which becomes binding, like the Talmud. For Maimonides but not the cookie cutter Orthodox, a custom that violates the plain sense of the Talmud is illegitimate, invalid, inauthentic, and **must** be opposed. For cookie cutter Orthodoxy, the idiom *minhag Yisrael* means "what Orthodox Jews happen to do" and no more, and this mimetic culture must go unchallenged as the inerrant word of God and *godol* alike.

A rabbi affiliated with Baltimore's Ner Israel Yeshiva, argues that women ought not to do the *mayim aharonim* rite. According to the Talmudic canon, women are **obliged** to observe this rite, as it is not a time bound obligation. This rabbi contends that the pious ladies of his family did not observe the ritual. Thus, if his family members didn't do something, that must be correct, even though the family members did not act in accord with Talmudic law. A similar "logic" is employed by ArtScroll, which disallows women from reciting the *birkhat ha-zimmun*, even though the rite is, according to Talmudic syntax, an obligation. The Tosafists concede this point even though the rite has wrongly been downgraded to a custom. Now, once the rabbinic rule is downgraded to a custom, hareidi religion invents an alternative custom to outlaw women acting liturgically. Ironically, like the feminists who regard the right to observe rite as empowerment, hareidi religion fears women's empowerment, not only disallowing the permitted, but the required. And failure to conform to this culture standard undermines one's *bona fides,* or *hezkat kashrut.* The real commanders for cookie cutter cowards are human beings whose approval may be given or withheld. These cookie cutter rabbis' acts and pronouncements invariably tout the party line, without intellectual, hermeneutical, or methodological consistency. A rabbi who would restore the daily recitation of the priestly blessing, challenge the validity and legitimacy of community *eruvim*, or outlaw women's wigs on the Sabbath, would lose his *bona fides*. Such rabbis are extensions of the great rabbis, acting as enforcers, not decisors. They are

ordained to be good soldiers but not probing, confident, or competent rabbis. They have come to know their place in the rabbinic hierarchy, looking important but being impotent.

Covenant Maker rabbis realize, following Hoshen Mishpat 34, that well intentioned errors are not sinful. Dissent is legitimate, intimidation is not.
Since the Torah's ways are pleasant, because God, through the medium of Scripture, says so, only that Orthodoxy that is pleasant, respectful, ethical, and absolutely committed to being decent is worthy of Orthodoxy's banner.

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