Da'as Torah May Not Be the Answer: But What is the Question?

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On Friday March 13, 2020, as the coronavirus was beginning to ravage Israel's Haredi community, R. Hayyim Kanievsky, the 92-year old acknowledged leader of the so-called Lithuanian Haredim, issued an open letter "Regarding the concern of transmission of the Corona Virus Pandemic." "Everyone," he wrote, "must be *mechazek* [strengthen themselves] to refrain from *Lashon Harah* [gossip] and *rechilus* [slander] as it states in [Talmud] *Arachin* 15b…They must further strengthen themselves in the *midah* [attribute] of humility and to be maavir al midosav [let matters pass, that is, not take umbrage] as the *pirush haRosh* [commentary of the Rosh] on the side of the page says explicitly in the end of [Talmud]Horios…And the merit of one who strengthens himself in these prescriptions will protect him and his family members so that not one of them will become ill." [i] He said nothing about social distancing, or any other orders that might have emanated from the medical community.

The following night, Motzei Shabbat March 14, Rav Kanievsky's grandson asked his grandfather (in Hebrew) whether Cheders (elementary schools) and Yeshivot should remain open. The grandson said that the "Medineh," that is, the Israeli government, was warning that schools should remain closed until there was a way to deal with what he called the *mageifeh* (plague). R. Kanievsky, mumbled something that was not entirely audible. The grandson then said, "so the cheders should remain open?" and R. Kanievsky nodded his assent. The grandson then followed up with "and the yeshivot should remain open too?" Again the Rav agreed. The grandson never mentioned medical advice, and the rabbi never asked.

Despite personal pleas the next day from top police officials, who did refer to medical opinion, R. Kanievsky, together with R. Gershon Edelstein, the *Rosh Yeshiva* (Dean) of the famed Ponevezh yeshiva in Bnai Beraq and chairman of Aguda's *Mo'etzses Gedolei Hatorah* (Council of Torah Greats) issued an open letter that called for Haredi schools at all levels to remain open though it did acknowledge the need for certain precautions. The letter began with a clarion call that no Haredi was likely to ignore:

"In a time when we are in grave need of great heavenly mercy to maintain the health of our nation, certainly **it is proper to strengthen ourselves in the study of Torah**, to be careful in committing slander (*Lashon HaRah* and *Rechilus*), and to strengthen ourselves in humility and to judge everyone favorably….Our sages have already stated (Yuma 28b), "Since the days of our forefathers, the Yeshivos have never ceased [to be active] from them. They further stated (Shabbos 119b): The world only exists on account of the sounds of children in the house of their Rebbe [yeshivos]. **They are the greatest insurance possible that the destroyer not enter into the homes of Israel** [my emphasis]."

The letter then made some allowances for the reality of the epidemic, calling for schools and yeshivot to split up students; ensure "that there is adequate space between person [social distancing – recommended at 2 meters" and that "classrooms and *Batei Midrashim* [study halls] be properly ventilated; and to appoint supervisors [*Mashgichim*] to maintain the proper level of cleanliness as a health necessity." It also called upon educators to ensure that no one who was meant to be under quarantine, or had a family member under quarantine, was to enter the *Beit Midrash*.

The two rabbinical leaders then observed that "This is all from the perspective of an understood precondition to the action [of attending school or Yeshiva]. The *Roshei Yeshiva* [Deans] and the administrators of the Talmud Torahs (and Yeshivos) must be on guard to ensure compliance." The letter did not specify whether "compliance" meant compliance with health regulations, or compliance with the directive to keep the yeshivot open. The letter then concluded with the admonition that "we must have faith in the Holy One Blessed Be He who watches over all His creations, and no man is stricken by a calamity if it was not decreed from Above. And may the merit of Torah and all that strengthen us stand for us as protection and salvation."[ii]

The letter prompted a major outcry over the danger into which the aged rabbi and his Ponevezh colleague had placed youngsters and their families and led to his reversal two weeks later. By then, however, considerable damage may have been done. Though it was unknown, indeed unknowable to what extent his ruling resulted in more coronavirus carriers and more Covid-19 deaths in Bnai Beraq, Jerusalem's Haredi neighborhoods, and other Haredi enclaves such as Beitar Ilit, there was little doubt that the letter had added to the roster of both carriers and death.

It was also reported that *Kupat Ha'ir,* a charity based in Bnai Beraq that raises funds by offering to have young Haredi scholars pray at the *kote*l for all sorts of personal requests made by the donors, was advertising, in R. Kanievsky's name, that donors who paid the shekel equivalent of $836 would "enjoy immunity from the coronavirus for themselves and their families."[iii] This appeal for funds simply reinforced the intent of R. Kanievsky's original edict of 13 March.

On April 20, shortly after the conclusion of Pesach, it was reported that R. Kanievsky had ordered the schools and yeshivot once again to open their doors but that R. Edelstein had put a hold on its publication. The latter denied that was the case, however, and instead, the two rabbis issued a second letter that revealed their impatience, warning that if there will not be a response [to reopen the Yeshivot] and the foot dragging continues without real progress, the great Torah sages [of Agudah] will consider drastic action."[iv]

Meanwhile the virus continued to rage in Israel generally, and among the Haredim in particular. Though Haredim accounted for perhaps 12 percent of the Israeli population, it was estimated that they accounted for as much as 50 percent of all hospital beds in the country. No wonder that R. Kanievsky's edicts in response to the country's health crisis prompted outrage among Israel's non-Haredi elements.

At long last, in recognition of the depth of the crisis confronting the Haredi community no less than the entire Israeli population, the two rabbinic leaders, acting with the government's consent, appointed a special task force consisting of two younger rabbinic leaders, R. Shraga Shteinman, son of R. Kanievsky's predecessor as leader of the "Lithuanian" Haredim, R. Aryeh Lev Shteinman (and R. Kanievsky's son-in-law), and R. Baruch Dov Diskin, scion of another leading Haredi rabbinic family, together with Dr. Meshulam Hirt, "the Gedolim's physician," to examine ways to reopen schools in compliance with government directives. The task force issued its initial guidance on May 3, recommending that higher elementary grades and above could reopen under strict conditions mandated by the government. R. Kanievsky endorsed the task force recommendations.

For Haredim, Rav Kanievsky's views were not merely the opinions of a wise leader. They were *Da'as Torah**[v]*** and thus had the imprimatur of the Divine.[vi] At a minimum, it was asserted in some quarters that if the rabbi had erred—and no one would dare say that he had—it was because he was so enmeshed in his studies that he did not fully realize the extent of the threat that the virus posed to Israeli society.

The problem, however, was not with R. Kanievsky's initial responses. It was with the way the matter had been put to him.

Haredim and "The Medinah"

After 72 years of existence as a state, a consequential portion of the Haredi community has yet to recognize the reality of what they term “the Medinah.” Nothing has changed since 1912, when Yaakov Rosenheim convened the first Agudas Yisrael conference in Kattowitz (Katowice), then part of Germany, in no small part as a reaction to a decision by the Tenth Zionist Congress not to fund religious schools. Rosenheim envisaged Agudah as an umbrella organization for all religious Jews. While he never fully realized his dream, the organization did emerge as a major locus for opposition to Zionism. Not coincidentally, *Da’as Torah* also became enshrined in the Agudas Yisrael platform. Indeed, Agudah created a Council of Torah Giants (*Mo’etses Gedolei HaTorah*), whose pronouncements on all matters, whether Halachic or secular, were treated as authoritative and binding upon all religious Jews. And the Council was overwhelmingly anti-Zionist.

During the First World War, when Germany occupied parts of Russian Poland, leading German rabbis, notably Rabbi Dr. Emmanuel Carlebach, coordinated their activities with the Gerer Rebbe, Rabbi Avraham Mordechai Alter, one of the most prominent Hasidic leaders. Like the German rabbis, and indeed, Hasidic *admorim* (Grand Rabbis) of all stripes, R. Alter was hostile not only to secular Zionism, but also to religious Zionism, which was organized under the umbrella of the Mizrahi movement.

The Agudah leadership allied itself with the representatives of the so-called “Old Yishuv,” the long-standing Haredi community of Palestine, most of whose members resided in the older districts of Jerusalem and Tsefat. These Jews were violently opposed to the influx of Zionist settlers into what after 1918 became a British mandate. Not surprisingly, the Agudah leadership aligned itself with the leaders of the Old Yishuv who in 1937 testified before the British Peel Commission in opposition to the creation of a Jewish State.

Needless to say, Agudah invoked *Da’as Torah* in its opposition to Zionism and the notion of a Jewish State. In so doing, it was claiming heavenly support for what was essentially a political position. This was consistent with the view, articulated by R. Yisroel Meir Kagan, best known as *Hofetz Hayyim*, and subsequent rabbinic leaders such as the late *Rosh Yeshiva* of the Mirer yeshiva, R. Nosson Zvi Finkel that *Da’as Torah* was as binding with respect to non-Halakhic matters as to Halakhic ones. As R. Finkel put it, “when a great man offers either advice or a ruling, *Emunas Hakhamim* [belief in the Sages][vii] mandates that one can neither hesitate nor doubt. This is *Da’as Torah* and this is how it should be.”[viii]

Agudah had no choice but to come to terms with the Jewish state once its leaders declared its independence in 1948. There was a sense among Haredim, as among some secular Jews, however, that the State would not survive more than a decade or at most fifteen years,[ix] but for the moment, Agudah felt it had no choice but to transform itself into an Israeli political party. Nevertheless, in so doing it did not relinquish its refusal to come to terms with the secular state. It refused to join government coalitions, or to allow its representatives to hold ministerial posts, though through a sleight-of-hand ruling, the Council of Torah Greats permitted Agudah’s representatives in the Knesset to serve as Deputy Ministers. These men often acted as *de facto* ministers, and in some “emergency” cases, held full ministerial portfolios.

Agudah’s participation in Israeli political affairs did not extend to other aspects of Israeli society, however, particularly army service. The Haredi leadership viewed the army’s secular, assimilationist orientation as the leading threat both to its values and to its control of the community. Thanks to an agreement between Agudah’s acknowledged leader, R. Abraham Isaiah Karelitz, popularly known by the title of his works as Hazon Ish, and Prime Minister David Ben Gurion , yeshiva students were exempted from service in the Israeli Defense Forces. The agreement enabled Haredi leaders to maintain at least some semblance of a wall between their adherents and the rest of Israeli society, and to underscore their fundamental and principled opposition to what they termed “the Medinah.” It is in the context of this opposition that R. Kanievsky’s edict must be seen.

The Mantle of Haredi Leadership

Not all Haredim are anti-Zionist. In 1984 the great Sephardi leader R. Ovadia Yosef led his followers out of the main Ashkenazi Haredi political parties, and created the Shas Party with its own Council of Torah Sages (*Motetset Hakhmei HaTorah*). Shas displayed a more sympathetic attitude toward the state, including having its Knesset members serve as full ministers in the government.

Even among Ashkenazi Haredim, however, there is no common stance vis a vis "the Medineh." Although they share a common antipathy to Zionism, Haredi leadership is not vested solely in Agudah's Council of Torah Greats. In particular, the *Eidah Haredis*, successors to the Old Yishuv, is far more vociferously, and far too often violently, opposed to the Jewish State. Moreover, whereas the majority of Haredi yeshivot do not hesitate to receive financial support from the State's coffers, some –such as the Brisker yeshiva, following the leadership of its late dean, R. Yosef Zev Soloveichik—refuse to take any state funds. Nevertheless, whatever their differences, the vast majority of Ashkenazim look to a single leader for guidance, *Da'as Torah*, on major political and social issues. Until his passing, Hazon Ish was that leader.

Hazon Ish rose to his position of prominence on the passing in 1940 of his brother-in-law, R. Hayyim Ozer Grodzinski, who had in turn succeeded Hofetz Hayyim as the acknowledged leader of the Lithuanian Haredi world. Familial ties among the Lithuanian Haredi leadership continue to this day: R. Kanievsky was not only a student of the Hazon Ish, but also his nephew. And, as has been noted, R. Shraga Shteinmann, whom R. Kanievsky appointed to the coronavirus task force, is the latter's son-in-law.

At 93, R. Kanievsky represents the tendency of the Lithuanian Haredim to recognize as supreme leaders of the movement nonogenarians or even centenarians. Thus, R. Kanievski's predecessor, R. Aryeh Yehuda Leib Shteinman was *niftar* (passed away) in 2017 at the age of 103, while his own predecessor, R. Sholom Yisef Elyashiv died at the age of 102. R. Elyashiv's predecessor, R. Elazar Menachem Man Shach, likewise was 102 when he was *niftar*.

Is the problem the answer, the question, or the system?

The Torah teaches that Moses was as much in control of all his faculties on the day he died at the age of 120, as when he was a much younger man. That is not necessarily the case with other older persons, even if they are great scholars. It is arguable that by the time they reach their nineties, even leading Halakhic experts may have lost half a mental step. They might comprehend what is being asked of them, indeed, their replies may reflect their decades of Torah knowledge. Nevertheless, they may not have the mental acuity to probe all facets of whatever issue is brought before them, as they may have been able to do as recently as a decade earlier.

It is well known that Haredi leaders surround themselves—or are surrounded by—men who are collectively known as *askanim*. In the words of R. David Stav, leader of the moderate Orthodox Tzohar movement, *askanim* are "a small group of Haredi *askanim* who, because of their own personal interests, make Judaism and Haredi society hateful to Israelis." [x] R. Dov Lipman, an American-born moderate Haredi who served for a period as a Knesset member, outlined the power of these men:

"The issue of the *gedolim* Torah greats] is very largely the a*skanim* who surround them…*Askanim* are the community activists and assistants who normally surround the leading rabbis and act as a buffer between them and the communities they lead. They [Torah greats] are totally controlled by people around them and that's the biggest problem….[xi]"

These *askanim* clearly take advantage of elderly rabbis, putting questions to them in much the same way as pollsters with a particular political bias will put questions to their respondents. Not surprisingly, manipulative questioners will elicit pronouncements that are in line with what they want to hear. And since those pronouncements have the force of unchallengeable law for the Haredi community, they are in effect empowering their questioners to ride roughshod over that community.

This appears to have been the case when R. Kanievsky's grandson, with one of the *askanim* standing over his shoulder, asked his grandfather whether yeshivot and elementary *cheders* should remain open. He did not explain clearly that not just the "Medineh," but doctors had argued for such closures. Had he done so, R. Kanievsky would immediately have recognized that the issue was one of *pikuach nefesh* , saving lives. Without a doubt, had R. Kanievsky been asked whether schools should be closed to save lives, his answer would have been in the affirmative. After all, Halakha is unambiguous with respect to this issue; indeed, Halakha posits that even the remote possibility of life being endangered justifies violating the Torah.[xii] Indeed, once R. Kanievsky fully fathomed the severity of the crisis, he did call upon a trusted doctor, along with respected Haredi rabbis, to devise an approach that satisfied both the requirement to maintain safety and the objective of studying Torah. It was the word "Medineh" that had acted as a red flag to the aged rabbi and prompted his initial response.

The Challenge for the Haredi world

Modern Orthodox Jews do not recognize *Da'as Torah* outside the bounds of Halakha. They look to specialists, for example in the military or medical realms, for guidance on purely secular issues. They justify their attitude both because rabbinic greats ranging from R. Joseph B. Soloveichik to R. Ovadia Yosef took this view, and because *Da'as Torah* has been on the wrong side of Jewish history in multiple occasions, failing the Jewish people at critical times in the recent past. These include opposing immigration to America or Israel when it was still possible before the invasion of Poland; opposition to the creation of the State of Israel; and opposition to public demonstrations to free Soviet Jewry. For the Modern Orthodox, therefore, Haredi rulings concerning responses to the coronavirus epidemic had little impact.

Moreover, not all Haredi leaders are as closed to the outside world, and therefore as vulnerable to *askanim*. The recently departed Novominsker Rebbe, R. Yaakov Perlow, who died due to the coronavirus, graduated with honors from Brooklyn College![xiii] A group of Hasidic *admorim* and *rabbonim* residing in Boro Park, Brooklyn and led by R. Perlow, issued a proclamation on the eve of Pesach outlining the importance of maintaining government restrictions even at the cost of hallowed Passover traditions.

On the other hand, as noted at the outset of this essay, contrary pronouncements by Haredi rabbinic leaders have had a devastating effect on the community. Indeed, the outsized impact of the coronavirus on the Haredi population has affected all Israelis, since Haredim occupy a disproportionate percentage of hospital beds. The community, whether in Israel, the United States or elsewhere therefore needs to re-evaluate how to structure its leadership. In particular, if it will continue to treat the words of aged leaders as inviolable law it must take steps to rid itself of the scourge of *askanim*. The lesson of Israel's hospital bed crisis is that doing so not only will enhance the welfare of Haredim, but will also redound to the benefit of the Jewish community as a whole.

[i] Translation of the Hebrew, reprinted in David Zer, "MESSAGE FROM THE GADOL HADOR: Rav Chaim Kanievsky's Instructions on How to Protect Yourself and Loved Ones," The Yeshiva World (March 13, 2020), https://www.theyeshivaworld.com/news/featured/1839688/message-from-the-gadol-hador-rav-chaim-kanievskys-instructions-on-how-to-protect-yourself-and-loved-ones.html.
[ii] https://www.theyeshivaworld.com/news/featured/1839688/message-from-the-gadol-hador-rav-chaim-kanievskys-instructions-on-how-to-protect-yourself-and-loved-ones.html
[iii] Jacob Magid, "Charity tied to top rabbi raises cash with promise of immunity from coronavirus" (Times of Israel, April 18, 2020). https://www.timesofisrael.com/charity-tied-to-top-rabbi-raises-cash-with-promise-of-immunity-from-coronavirus/
[iv] TOI staff and Jacob Magid, "Top Haredi rabbi Kanievsky orders yeshivas opened; his colleague blocks him – TV" (Times of Israel, April 22, 2020). https://www.timesofisrael.com/top-haredi-rabbis-threaten-drastic-steps-if-no-way-found-to-open-yeshivas/
[v] When citing Haredi statements or concepts, this essay employs Haredi Ashkenazi pronunciation.
[vi] For a discussion, see Lawrence Kaplan, "Daas Torah," in Moshe Z. Sokol, ed. Rabbinic Authority and Personal Autonomy (Lanham, MD and Boulder, CO: Rowman&Littlefield, 2006), 1-60, and Dov S. Zakheim, "Emunat Hahamim, Da'at Torah and National Security," Conversations 30 (Winter 2018/5778), 78-93.
[vii] When citing the writings and names of leaders of the Yeshiva World I employ their "Ashkenazis" pronunciation, since that is how both the authors and their intended audience will pronounce what is written.
[viii] R. Nosson Zvi Finkel, "Sihos Mussar," in *Yeshurun* 27 (Elul 5772/September 2012), 373.
[ix] See R. Hayyim Shlomo Leibovitz, "Hashpo'as HaTorah" *Yeshurun* 38 (Kislev 5777/December 2016), 328. Interestingly, R. Yosef Zev Soloveichik postulated at the time that "if they [i.e. the Israeli government] will permit yeshiva students to study and not serve in the military, then the state will survive in the merit of the exemption they are granting to yeshiva students." *Ibid.*
[x] https://www.haaretz.com/.premium-word-of-the-day-askanim-1.5224598
[xi] https://www.jpost.com/jewish-world/jewish-features/the-new-haredim
[xii] R. Yosef Karo Shulhan Aruch: Orah Hayyim 329:2; R. Meir Kagan, Mishna Berurah, ad. loc., s.v. kemehtza; R. Moshe Feinstein, Igros Moshe: Orah Hayyim I: 132.

[xiii] Sam Roberts, “The We’ve Lost: Rabbi Yaakov Perlow, Head of Hasidic Dynasty in Brooklyn, Dies at 89,” The New York Times (April 16, 2020), https://www.nytimes.com/2020/04/10/obituaries/rabbi-yaakov-perlow-dead.html