Pulpit Rabbinate and Halakhic Diversity

View PDF

This article by Rabbi Jack Simcha Cohen was published on our website several years ago. We post it again, as a tribute to the memory of Rabbi Cohen who recently passed away. Rabbi Jack Simcha Cohen was an energetic community rabbi, a prolific author, and a respected Talmid Hakham. He was an articulate spokesman for Orthodox Judaism and a true Ohev Yisrael.

The prophet Amos warns the Jewish people, "Behold, days are coming, says the Lord, and I will send a famine in the land, not a hunger for bread nor a thirst for water, but to hear the word of God... and they will run about to seek the word of the Lord and shall not find it" (Amos, 8:11,12). Rav Shimon Bar Yohai commented: "Heaven forbid that Torah will ever be forgotten from Israel." If so, then what is the meaning of the above verse? It means that a time will come when Halakha will not be monolithic. There will be no definitive Halakha. There will be diversity (Shabbat 38b-39a).

The Maharal of Prague makes the following incisive comment: "Israel and Torah are one. Each impacts the other. The status of Israel - the Jewish people - is reflected in the status of Torah. Just as Jews are not physically united but scattered throughout the world, so too is Torah not monolithic. It too is not unified. (Tiferet Yisrael, Chapter 56, see also Pahad Yitzhak Purim, No. 31). As such, Galut - the exile - has a spiritual component. As long as Jews are not physically united in Israel, diversity is a normal feature of the halakhic process. As long as the Galut exists, so too does diversity.

The Talmud records that Honi HaMe'agel was a Jewish Rip Van Winkle. After his legendary sleep, he visited the Beit Hamidrash and heard the scholars bemoan his death, contending that Honi had the ability to clearly resolve halakhic problems: "Ah, if only Honi were alive!", they sighed. Honi approached them and

identified himself, but the rabbis disbelieved him and he departed dispirited (Taanit 23a). Rav Hayyim Schmuelevitch, Dean of the Mir Yeshiva in Jerusalem, made the following poignant remarks: What is a Toran sage? Is he not one who has mastered Torah knowledge? Accordingly, Honi should have requested the rabbis to pose halakhic questions to him. Honi's ability to resolve difficult Torah problems would have verified his status. Perhaps, suggests R. Hayyim, certain problems cannot be resolved by sages of previous generations. Each scholar, in each era, must rule on the problems of the day. There must be a charismatic relationship between master and disciple. For this reason Pirkei Avot delineates the chain of tradition. Moshe, having received the Torah at Sinai, transferred it to Yehoshua, Yehoshua to the Elders, they to the Prophets, and they to the men of the Great Assembly. No era relied totally on the leadership of the previous generation. Each had its own leadership (Sihot Musar, 5731, p 19). Accordingly, differences may emerge due to different personalities and concerns of each era.

It should be noted that halakhic diversity is not synonymous with deviance. The latter is aberrant behavior outside the perimeter of halakhic guidelines. Of interest is the halakhic reaction to institutionalized deviant worship. The Talmud notes that in Alexandria, Egypt, contrary to halakhic rules prohibiting animal sacrifice outside the Temple in Jerusalem, the kohanim practiced the ritual. The Mishnah cites Scriptures to prohibit those kohanim who ministered in the House of Onias from ministering in the Holy Temple. (Menahot 109a) The implication is that such kohanim, though deviant, were devout Jews otherwise qualified to minister in Jerusalem. They were outlawed from serving in the Holy Temple The congregants, or worshippers in the House of Onias, were not ostracized. The position seems to be the model for traditional rabbinic reactions to non-halakhic Jewish clergy; their rabbis are not deemed rabbinic leaders, their services are ruled deviant, but the ordinary people (the worshippers) are not excluded nor condemned. The door is constantly open to all Jews to pray together and observe mitzvot.

Of major concern, therefore, is a question that goes to the root of religious power and influence, -- namely, who has the authority to establish halakha? This question has two major components.

Who has the right to go through the intellectual process of creatively providing the research, precedent and logic to formulate halakha on specific issues?
Who has the authority to establish policy?

To set policy requires a concern not only for the legal religious issues, but also for the ramifications of the decision upon the community. Indeed, should a particular

ruling be viewed as generating a negative impact upon the sphere of Torah, the observance of mitzvoth or the future status of the people - many rabbinic authorities would refrain from establishing a halakhic practice. This suggests that an issue or practice that may be even legally (halakhically) permissible - may be prohibited as a policy. Thus it is evident that the formulators of halakhic policy influence the contours of religious life. Who are these people? We know that they are rabbis. But, what type of rabbis? This suggests a brief analysis of the Galut rabbinate and, in particular, the pulpit rabbinate; namely, those Rabbis who serve as leaders of congregations.

The Galut pulpit Rabbi is not controlled by any formal hierarchical structure. There is no regional or national Rabbinic supervisor to impact his freedom of action. Theoretically his authority to formulate halakha is inherent in his position as a Jewish leader. He is equal to anyone. Yet, from a pragmatic viewpoint, the pulpit Rabbi (especially in the U.S.A.) until recently has been perceived as the lowest figure of authority for the establishment of halakhic policy. He may implement or execute halakha, but was not deemed the proper vehicle to set policy itself. It was generally assumed that halakhic policy was simply beyond the scope of such rabbis.

A popular maxim from Pirke Avot (1:2) will help clarify the issue. It is reported that Shimon Hatzadik frequently said: "The world stands (or is based) upon three principles: Torah, Avodah, U'gemilut Hasadim. Torah is self understood; Avodah is religious, pious service or prayer and Gemilut Hasadim - is loving kindness. It should be noted that Jewish life has developed institutions to carry out (and, in a way, serve as the specialists of) each of the three endeavors.

1. The Yeshiva serves as the bastion of Torah learning. It is in the Yeshiva where one finds the greatest concentration of Torah scholarship and creative Torah excitement. As such, the Rosh HaYeshiva - the head of the Yeshiva, logically should serve as the final decisor for Torah questions. He simply is the greatest reservoir of Torah knowledge. The head teacher of Torah and Rabbis is assumed to know more than others.
Accordingly, halakhic policy has legitimacy when it emanates from such a source.

2. The Hassidic Shtibel generally serves as an example for the manifestation of fervent pious prayer. The Hassidic Rebbe need not necessarily be the greatest Torah scholar, but certainly he excels in praying. He is considered a holy Jew. He is, perhaps, a specialist in Avodah - religious service. Service to God has legitimacy, therefore, where it emanates from such specialists in piety.

3. Hesed and Tzedakah - Charity. In the Diaspora, synagogues are a major religious source for the collection and disbursement of charity. The rabbis serve as leaders of congregations of which a number among their midst may be philanthropists. Thus, pulpit rabbis are courted by Roshei Yeshivot and Hassidic Rebbes not because of the fact that such rabbis are great Torahs scholars, but - because of the potential influence such pulpit rabbis may have over directing lay leaders to support specific Torah or Hassidic institutions.

To the extent that the normal functions of synagogue life do not, by their very nature, require their rabbis to be great Torah scholars, the pulpit rabbis were by general understanding deemed not the proper legitimate source for formulating halakha. As such, a new dimension was added to halakhic policy.

The quality of research or the scintillating creativity of logic was of no paramount issue. The major question was the source of a halakhic ruling. Who said it? The name of the Rabbi who proclaimed policy was essential to engender acceptance.

Concomitant to this was the emergence of a "yardstick" to measure the validity or legitimacy of halakhic decisions. Is is called "Daat Torah". This principle projects the concept that a group of rabbinic sages imbued with the sanctity of Torah are the sole, authentic interpreters of our religion and spokesmen for daily decisions. Accordingly, all decisions require the imprimatur of great scholars. No one else has the Torah authority for halakhic policy. Thus, a decision which several great rabbis in unison promulgate has validity even if sources are not delineated. As long as a group is recognized as "Daat Torah", all decisions must be abided regardless of rationale or scholarship.

The underlying energizing legitimate aspect of this concept is the perception that "Daat Torah" is not solely the viewpoint of one or but a few of our great rabbis, but rather, the consensus position of a goodly number of rabbinic sages. If a practice appears to project the position of the world of scholarship and piety it becomes the "in and approved" rabbinic concern.

Though, in theory, such a position appears to have great merit, pragmatically, it generated a number of dysfunctional manifestations.

1. Torah Judaism is based on scholarship. Pronouncements and policies are traditionally rooted inTalmudic and halakhic expertise. Yet, in the era of "Daat Torah", the source or quality of scholarly research became secondary to the name of the person and position of the Rav who formulated it. This permeated within the rabbinic community a tendency to dismiss the findings of scholarship. It was

necessary to acquire a "Gadol" - a sage who would back a specific policy. Such a position, moreover, would have respect regardless of the quality of the scholarship serving as the pinions for such a ruling. Torah discourse became exercises in futility, for nothing would become policy until a proper "Gadol" sanctioned it. This crystallized the approach of scurrying around for a "Gadol" to approve halakhic policies.

2. The concept "Daat Torah" gives the impression that it is a consensus position of numerous sages. Its dysfunction is that the process of seeking consensus generally tends to promote "humrot" or extreme orientations. It is generally easier for those who seek lenient rulings to agree to stringent positions than for extremists to accept lenient rulings. Accordingly, lenient positions do not emanate from a "Daat Torah" philosophy. It simply does not take place. There appears to be, moreover, a built-in negative response to any creative moderation or "loophole", even if such is halakhically correct. This generates public denunciation and scathing criticism of innovative halakhic rulings. Thus independent, objective halakhic inquiry is stifled by political pressure. Most scholars are simply not at all interested in incurring criticism or controversy and generally favor discretion over valor.

This projects the image that Torah policy is basically a movement to cater to right wing ideology. As "Daat Torah" became more popular, it became evident that no one was serving as the halakhic leaders for the vast numbers of Orthodox laymen in modern Orthodox synagogues. No one was the spokesman for the moderates. Indeed, it became necessary for Rabbis of congregations who deal daily with major problems to once again assume responsibility for establishing halakhic policy. Chaucer once wrote, "Truth will out." So too with halakha. It is not and cannot be the esoteric domain of a few select leaders. All Jews must be aware of its methodology and principles. Its logical system must be tested in the open sphere of dialogue and debate. Halakhic policy is the result of positions finely honed through Torah scholarship. That is the way it used to be. That is the way it should be again. Rabbis should have the ability to openly develop halakhic policy whether or not it is innovative or stringent or lenient or not part of a consensus - the issue is and should be - is it halakhically sound? And if it is sound, will the rabbinate implement the position?

There are changes in the pulpit rabbinate, changes that alter the role of pulpit rabbis and their ability to formulate halakha.

As a result of the phenomenal growth of Torah and Yeshiva education in America, most major congregations have large numbers of former Yeshiva students as part

of their membership. These individuals are demanding that pulpit rabbis manifest Torah scholarship and erudition. As such, a new breed of scholars is occupying the leadership of pulpits. No longer may they be dismissed for lack of Torah standing.

In addition, many Rabbis of pulpits and Rashei Yeshiva are more or less around the same age level. This generates a new, mutual respect. When the Rabbis were aged in their twenties and thirties and the Rashei Yeshiva were venerable sages in their seventies, eighties or above - the pulpit rabbis would subordinate themselves to others. But, when the rabbis in the major congregations are more or less the same age or older than the Rashei Yeshiva - a different relationship applies. Indeed, many pulpit Rabbis even recall learning together as equals or peers with a number of Rashei Yeshiva while both were students.

Accordingly, both groups feel a sense of kinship and do not simply defer to the opinions of others.
Some time ago a noted Israeli Rosh Yeshiva and Member of Knesset visited with me. In an attempt to asses his character and religious hierarchical orientations, I asked him, "Who is your Rebbe? Who's your Rabbi for serious ideological problems?" His response was simple, matter of fact, yet quite astute. "You know, Reb Simcha, that those of us over forty years of age have no living Rebbe. We, sadly, are our own Rebbe." He's right. As a result of all of the above noted dynamic factors: namely, the concern for Halakhic policy to represent the needs of congregations - the desire to re-assert the stature and role of the pulpit rabbi - the concern that stringency is not necessarily the raison d'etre of halakha- the distaste for vilification of alternate policies - the simple lack of any commanding imposing giant to coalesce action - the concern for a moderate view - all these issues generated a support system for pulpit Rabbis to reassert their role in formulating halakhic policy.

A professor of mine, Albert Salamon, a noted scholar at the Graduate faculty of the NewSchool for Social Research, once said, "The image of the King topples before his throne." So too with halakhic policy. The dysfunctions in the current system supported a need for change. Congregations wished that Torah leadership should reflect the consensus views of Torah layman. This view may not be heeded by the Yeshiva or Hassidic worlds of influence. Such spheres of thought may seek out their own decisors of Jewish law. That is their right. The modern Orthodox have the right to seek out rabbinic scholars to espouse their viewpoint. Hopefully, halakhic policy will be the result of creative scholarship finely honed through the corridors of halakhic discourse - where ideas and Talmudic and halakhic

guidelines are the issues - not personalities or political machinations. In fact, that's what Torah is all about.

In Pirkei Avot, it is written (chapter 1:2)
"Shimon Hatzadik was one of the last survivors of the Men of the Great Assembly." He lived with greatness and grandeur. He was a member of the Great Assembly. Thus he personally knew the top leaders of a previous generation, among whom were numbered several prophets who spoke in the name of God. He was a Kohen Gadol. Legend has it that he influenced Alexander the Great, and the Abarbanel writes that he communicated with Aristotle. What a pedigree! Yet, after his death, the leadership of Torah passed to Antigonos Ish Soho. He was not a High Priest; not a man of Jerusalem. He was a new leader who came out of the woodwork to become the singular spokesman for religion and the emissary to pass on the tradition to yet another generation. This teaches us again the old maxim that "Torah Tsiva Lanu Moshe, Morasha Kehilat Yaakov. The Torah that Moses commanded us is an inheritance to the children of Jacob." (Deut. 33:4) Torah is not the sole repository of any one group. It belongs to all. All Jews are to learn Torah. Every Jew is a potential Hillel or Beruria. Pirke Avot delineates the transmission of Torah from one generation to another. Moshe and Yehoshua each served as the ultimate leader for their generations. Yet, afterward, no one person emerged to be so acclaimed by the Jewish people. There was a group called the "Elders" (wise men). Torah leadership was transformed from a single Master to a group of scholars; each lacking the ability to represent the totality of Kelal Yisrael - Maybe that is what will now take place again.