

Dr. Berger teaches Talmud and Tanakh at the Rabbi Joseph H. Lookstein Upper School of Ramaz in New York City.

RABBINIC AUTHORITY: A Philosophical Analysis

The subject of rabbinic authority can be divided into two different and, I believe, separable issues. The first, critical to the understanding of the role of the *posek*, is the nature of the individual Jew's obligation to obey a decision rendered by a particular rabbi. Much of this subject depends on an analysis of the nature of the relationship which may exist between the two persons, whether it involves a teacher and his student, or a communal rabbi and a member of his congregation. On the one hand, Yehoshua ben Perahiah's prescription to "choose a rav for yourself" (Avot 1:6) suggests that the personal interrelationship is a basic component part of the dynamics of obligation. On the other, the status of the *mara de-atra* (the community's teacher) and the legal ramifications of living within his jurisdiction argue that no personal relationship need exist between the resident and the local rabbi.

The second issue is a much broader one. It is, if you will, the notion of the authority of "the Rabbis" with a capital "R." The term's Hebrew counterpart, *Hazal*, is an expression already used by the Rishonim of the early Middle Ages,¹ and a prestige, even mystique, accompanies it which is not enjoyed by any subsequent group of rabbinic scholars. Today, the word has come to mean not only the traditional referent (i.e. "Our Sages of blessed memory"), but even the content of the statements attributed to them, whether individually or collectively ("There is a *Hazal* which says . . ."). Presumably, the message deserves to be accorded the same stature and authority as those who uttered it.

This phenomenon of granting authoritativeness to an utterance of *Hazal* not otherwise supported by biblical or legal citation is not in itself unique. In the many branches of science, for instance, there are recognized leaders with brilliant minds who dominate their specialties and whose intuitive suggestions are respected by their peers. Often there is election, as to an Academy of Science, for example. Most likely, this came about because at some earlier time they published articles, delivered lectures or invented some formula or device which clearly indicates their mastery of the material and their keen, if not revolutionary insight. Newton and Einstein are paradigmatic of this, even though their genius was exceptional. They held no post or position prior to their discoveries that would grant their formulae

official status; to the contrary, both remained in relative obscurity until their theories were published. Rather, it was the capacity of their insights to explain a large volume of data, to describe accurately what science took to be the physical world and to predict future occurrences which granted them their authority. In the physical sciences, those theories which can account for the physical universe as science has measured it, or can predict events in the natural world with hitherto unparalleled precision, are accepted by the scientific community as correct descriptions of the world and how it behaves. Their suggestions for further research and their working hypotheses will demand their colleagues' allegiance until enough data is collected which cannot be accounted for by even a modified or qualified version of the theory.² What interests us here is that the theory first becomes authoritative only after critical review by that group of experts for whom the theory is of direct relevance and interest. At times, this acknowledgement may come only after several contributions made to the field; each in its own right might be impressive, but it does not qualify the author as an expert until the several are taken collectively. In a word, this person has proven his credentials, and is deemed an expert within a specified area. This is known as *epistemic authority*, and an individual may possess it only by virtue of having proven his or her competence.

Our initial focus on the scientific community should not be taken as exemplary of epistemic authority to the exclusion of other domains. Every field has its standard of excellence, its measure of competence. In the hard sciences, that happens to be formulated in terms of the truth and falsity of the hypothesis, where a theory is measured against a specified set of data. But, in other fields, such as literature, it is not something measurable or provable but rather a work's creativity which contributes to its achievement of a degree of status.³ An interesting or imaginative work which captures the interest and appreciation of one's colleagues will grant its author an exalted stature in his or her community which the scientist enjoys for producing a "true" description of a natural phenomenon. In other words, authority depends entirely on success, however that is attained in a given domain.

The dependence of this status on one's earlier contributions has an obvious consequence: such authority is by nature tentative and pending. It is not established once and for all, but must be continuously sustained, requiring repeated performance of high quality. Here we observe an important wedge developing in the relationship between the expert and the statements made. For example, once a theory is accepted by the scientific community, it retains that status until the state of research renders the theory either incorrect or obsolete. In that sense, the theory has a life and history of its own, independent of its proponent. It will continue to rise and fall on its own merits, no matter how great the stature of its original author.

However, for the authors themselves, the status enjoyed is much more precarious, able to fluctuate widely in a much shorter time than the

theory which propelled them to that position. While the theory also suffers from a similar uncertainty and tentativeness, we could say its author's "half-life" is much shorter. Only as long as the majority of this individual's theses prove to be true (or imaginative, interesting, or promising, in non-scientific fields) does the community deem him to be an authority. If the "experts" publicly make a claim or suggest a theory which is speciously argued or commits some major flaws in its analysis, their stature might suffer immediately. This is not to say that their standing is all-or-nothing; just as the experts' authority was backed by proven success, now the record is simply tarnished, the evidence of expertise ambiguous. This challenge to the position of the expert will be resolved only by review of subsequent contributions to the field; the stature will either be regained by the production of more excellent (or even simply admirable) work, or, to the contrary, lost when colleagues in the field see little proof that their earlier assessment was accurate, forcing them to attribute the initial success to mere luck, or less noble considerations. This is precisely why "publish or perish" is axiomatic in the academic community. A society which measures all its members by the standard of furthering scholarship must constantly have samples to review and assess. In this world, sterility is as fatal as shoddy work. It is just a slower form of death.

It is important to note that in the non-scientific fields, the same is true, although to a varying degree. Unlike science, there are no observable data which may support or refute a given theory. This is to say, once a scientific theory is "proven," its force is no longer the authority of its original expositor, but the logical reasoning and the scientific method used to support it. However, if an author produces a major literary masterpiece, that work will grant its author prestige for a long time, probably longer than in the scientific world (most likely due to scientific theories being overturned and superseded, a state of affairs impossible in literature). That work may forever retain its standing in the annals of literature, but if it remains the exclusive product of the author, he or she will unlikely retain significance in the world of writers. Historians, perhaps, have one of the longest "half-lives" in the academic community; once a seminal work on a certain figure or period is produced, that scholar remains for a very long time the expert in that field, usually until the work is outdone. However, this might be due to the nature of the profession which so compartmentalizes its subjects that the authority enjoyed is long-lived but terribly narrow in scope. So, while an expert on the life of Woodrow Wilson may never be unseated (even if no other work is produced), it is unlikely that he or she will ever be taken as an expert in medieval English history.

The negative effect of poor scholarship shows the precariousness of one's position in the scientific community. However, a truly speculative claim, if espoused publicly by the expert, may actually gain some legitimacy in that it will attract the serious attention of its author's peers, simply by

virtue of its having been uttered by this particular authority. If a novice proposed the same theory, it would not receive the same serious consideration by other scientists. The simple fact that scholars of such (proven) standing have thrown their weight behind this idea grants it certain authoritativeness that it would not otherwise have. It is in such instances where the mutual relationship mentioned earlier between the statement and its utterer is seen in full relief. Proving original theories grants the author a presumption of intuitive perspicacity; if reinforced, the individual becomes an authority. After that, statements regarding issues related to the field of expertise made by the person are deemed worthy of serious consideration precisely because they have been made by him or her.⁴ Unless the expert makes contributions which fail by the standards of the community, or a long time elapses without any products to assess (even merely adequate ones will do), that authoritative stature generally remains intact.

What we have come to, then, is a definition of authority which means the ability to have one's pronouncements taken seriously. Actually, "ability" seems to be the wrong word in this context, given that it is not something the individual controls, or can independently develop or improve. Rather, it is a *de facto* sort of authority, in that it is simply the case that others take his or her utterances seriously.⁵ On this rendering, a hermit, or even one who has simply never published nor lectured, although he might truly be brilliant, could never achieve the status of an authority. It would be analogous to the scientific conundrum of a tree falling in a forest where no one was there to hear it.

Our model up to this point might suggest that epistemic authority is limited to a vague, almost abstract notion of "being taken seriously." However, in many spheres the notion is utterly practical, such as in medicine, engineering, or business. If an individual has earned a reputation of expertise, then upon his or her advice, one would be prepared to undergo surgery, build a bridge with certain materials, or invest my money in a particular venture. There is rarely "truth" or "falsity" in these domains, but once competence has been proven—the overwhelming majority of the patients recover, none of the structures have fallen, or most economic predictions have turned out to be correct—then one is willing to act based on that reputation and take his or her advice seriously.

Another field where this particular understanding of "authoritativeness" is seen quite clearly to rely on epistemic authority is law. In the American system, when judges make a ruling, they must accompany their decisions with opinions. Most Americans are familiar with this practice from the publicity which the Supreme Court of the United States receives in the media; however, it is common practice throughout the American judicial system. The positions taken either by the presiding judge or the majority and minority in multi-member courts must be defended, and the reasoning used to arrive at the decision must be articulated. The explanation may em-

ploy precedent, logic, principles of jurisprudence, or even overriding extra-legal considerations, such as morality or national security. In law, as in many of the humanities (e.g. history, literature, religion), there is little reference to "right" and "wrong," but to "persuasive," "arguable" and "inconclusive." There are, to be sure, certain cases (or certain interpretations) which may be seen clearly to be unconstitutional, or contrary to existing statutes and which are more akin to the scientific right and wrong. Nevertheless, the bulk of cases which come before many judges, particularly those who rule on the legality of an existing law, requires subtle, sophisticated and compelling argumentation. Whatever the argument, the judges aim to show it was not arbitrary, but that it was based on sound, if debatable, reasoning.

But the aim is not exclusively to justify a given decision to the parties involved. Opinion writing has the additional and quite critical function of permitting other courts to employ this decision as a precedent, determining whether the arguments are relevant to the case they are considering. Moreover, other institutions in the constitutional system will recognize certain rules and boundaries based on the court's decision and accompanying opinion, and act accordingly. Thus, there is a normative aspect to "being taken seriously" in the field of law.

Court opinions are not the only source of reasonable argumentation within the legal community. While only those have the normative aspect just described, legal scholars, both in briefs submitted to a court and in published articles, offer their understanding of the relevant issues of jurisprudence, and are often cited by the court in its opinions. These articles serve to foster for their authors an "authoritativeness" (a right to be taken seriously) in their respective fields and amongst their colleagues. On a given subject, it will be these authoritative scholars to whom the legal community will turn for counsel and advice. Indeed, these publications are actually used to consider candidates for appointment to a vacant judgeship.

This analysis of epistemic authority in scientific and non-scientific fields points to a significant distinction within the concept of authority. We have up to this point been focussing on the authority which a particular individual seems to possess. However, the scientist, scholar or judge is seen as an authority only in those gray areas where truth or conclusive evidence are, at least presently, lacking. With respect to those scientific rules and laws which have become universally accepted, they can no longer be said to derive from any specific authority; they are simply deemed to be true. Does it make sense to say that the world's shape is accepted on the authority of one's first teacher, or the first person in history to demonstrate its truth? Such theories enter the tradition, the canon of the field, and are universally accepted as true.⁶ While theoretically everything in science is open to revision, many rules and principles are considered true without the need for proving them from scratch each time a student asks why he should believe that. Those issues in science which are still speculative (e.g. the big

bang theory) or are currently evolving (e.g. superconductivity) require justification, according to the standards of the field.

In the humanities, this same distinction applies, only the relative size of the domains—what is accepted as true and what remains speculative—is much different. In science, it is fair to say, much is accepted as true without the constant need for proof, and only comparatively little is being debated, argued, or researched. By contrast, in history, the analysis of *any* event is theoretically revisable, and frequently is. This does not refer merely to the discovery of new documents or evidence which revise our knowledge of the past. Ascertaining the effect of certain historical events or discerning influences and trends is a much less exact sort of enterprise, and therefore requires more argumentation. In law, as we saw, obviously many statutes and laws are now part of the fabric of the legal system, and are unlikely to be challenged. Yet the theoretical possibility exists that through interpretation, even long-standing positions or understandings of the law may change (e.g. right to defense counsel and the unconstitutionality of the death penalty).

This distinction is depicted most graphically by Ludwig Wittgenstein.⁷ He draws for us a picture of a river and its riverbed. At its lowest level, the riverbed is made of bedrock, with sand which has settled above it. The flow of the river shifts the sand on the surface of the riverbed most forcefully, lifting sand from one area and depositing it in another. The shifts may be abrupt and easily identified, or slow but steady, imperceptible at short intervals, but quite distinct if viewed over a longer period of time. A strong, steady stream will even affect the contours of the bedrock, if applied for a sufficiently long period of time.

Indeed, in any realm, there exist assumptions and ideas which serve as the bedrock, the foundation upon which all other activity is based. A wide variety of forces, from archeological evidence to political bias, impact on other, more pliable notions, causing their confirmation, revision, or rejection. There are some ideas which are extremely speculative, having rested only lightly on the surface of the sand, never having firmly established themselves in the topography of the riverbed, and which are thus easily moved. Changes may be slow, modifications minor, but over the long term, shifts in even more firmly established notions can be evident. And, as Wittgenstein points out, even the most fundamental, unchallenged premises may be altered, if the river flowing over them, that is the force (or forces) working on them, is strong and sustained.

Returning then to our contrast of science and the humanities, in Wittgenstein's terms, the riverbed of science is simply thicker, more of it hard and firm. Sands still shift on its surface, but relative to the bedrock, it is only a thin layer of topsoil. In the humanities, however, there is a much thicker layer of loose sand, with only a thin foundation sitting at its bottom. There are times when the relative size of each element in the riverbed changes, depending on the consensus of the particular community. As can

be seen, the model Wittgenstein offers us is insightful, persuasive, and widely applicable.

For our discussion of authority, we may continue with Wittgenstein's metaphor and suggest that the authority of the *individual* operates as a force affecting the shifting sand, helping to displace certain mounds and put others there in their place. If the community begins to take a particular theory or opinion as accepted canon, then the "mound of sand" slowly but surely hardens, becoming part of the bedrock which makes up the landscape of the riverbed. It might only reach the stage of a "firm clump" before evidence turns up, either through discovery or argument, that shows this notion to be false or unpersuasive. The "clump" is thus loosened from its moorings by the force of the river flowing over it, and is either dissipated or moved to a different location on the riverbed. If a notion remains in the riverbed a long time, hardening over time, one cannot say that it is the authority of the initial proposer of the idea which gives it its place in the riverbed. When it was first suggested, perhaps the person's authority "brought it in," even motivating others to work on it and explore it which they might not have done had another figure introduced it. (In this case, the human authority is the water.) But it is the subsequent proofs and the acceptance by the community which allows the notion to assume a permanent position in the bedrock so that it does not become easily displaced. It remains there, and gradually becomes part of the foundation.

The riverbed metaphor forces us to begin to look at epistemic authority in a much broader context than the more narrow one we employed at the outset. While we spoke initially of the authority of this scientist or that scholar, we were concerned with the authority of the position taken by that person as regards his or her peers. That is, how seriously does the community take the particular view espoused by a certain expert? However, that view, once accepted (and there is no rule as to how long this might take), begins to assume a different sort of authority. The notion is now taken seriously not because of its underlying justification or argument, nor due to the prestige of its original proponent. It is taken seriously because the workers in that field do not challenge it, but rather assume its correctness or validity, and employ it as the basis for conducting their other business. The domain may be large or small, but in every arena of human activity, some premises must go unquestioned, serving as the foundation from which to doubt or explore other topics. Authority of this sort is not measured against any particular standard, as when a notion is initially reviewed by a community of peers. Rather, a community acts based on its correctness or reasonableness, and it is that normative role which may be identified as the authority of "tradition." In contrast to our earlier presentation of a horizontal spread of authority, this phenomenon is more aptly described as a vertical line, for as the work, over time, becomes part of a living tradition, it assumes an authority of a different character.

It should be emphasized that this does not mean that the members of the community, in some formal manner, grant an idea authoritative status. Nor can they be construed, in any strict sense of the word, as authorities themselves. Rather, their acceptance or rejection of a proposition or a practice determines whether it will become part of the tradition, and it is the function of that set of ideas or practices within a society which makes the idea or behavior authoritative. Very often, this process is not deliberate or even explicit. If the community simply begins to conduct itself in ways which reflect the acceptance of this idea—proving it in other ways, having it serve as the basis for further research, or merely taking it as a given—then the idea has become firmly embedded in the bedrock of the community's tradition.

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Based on our analysis, epistemic authority seems a propitious starting point for discussion of rabbinic authority. Let us begin with the first type of rabbinic authority presented at the beginning of this article. When one goes to a rabbi to ask for a ruling, it might be a question of *issur ve-heter*, say about a *fleishig* pot, which is really quite straightforward, if only one were familiar with the relevant *siman* in *Shulhan Arukh* and the position of the *Taz* which addresses that situation exactly. The decision is not really based on the authority of one's local rabbi. Indeed, in the end it is not even grounded on the authority of the *Taz* (although it would have been had one asked the *Taz* this question, in his time). It is the simple fact that the *Taz*'s position is unchallenged and has entered the code which all observant Jews consult that renders his view a firm position in the bedrock of Jewish practice as regards the issue of *basar be-halav* under discussion.

Now, let us say, one has a more serious question dealing with the permissibility of a medical procedure that is on the cutting edge of medical technology, and has therefore not yet been treated in the halakhic literature. If the rabbi being consulted feels competent, he investigates the issue, and renders a decision either alone or in consultation with other rabbis and doctors. Clearly, one would expect that the rabbi could articulate the reasons for his decision, making a reasonable defense for the conclusion reached, even if the questioner could not appreciate or understand it, or even if another rabbi might arrive at a different conclusion.

This is the basis for writing *teshuvot* in the manner rabbis do, at least since the beginning of the medieval period. They rarely provide a succinct, curt response. More often, if not exclusively, they go through many of the relevant sources, analyzing them in a way which will either directly impact on the question or be shown to be immaterial. This is not a self-serving display of mastery of sources and sophisticated casuistry, although it does help to establish the author's status as a *talmid hakham*. Rather, it is a sincere attempt to justify one's position to the community according to the latter's

canons of discourse. (While the one who asked the question may indeed receive a simple yes or no answer, the *teshuvah* always carries with it the discussion which could be read by other rabbinic scholars. In certain cases, a local rabbi may have asked the question to a rabbi of higher stature, so the respondent assumes that the addressee will understand the argument.) It is exactly parallel to the scientist's paper or the judge's opinion; none are irrefutable, but they attempt to prove one's position using the accepted principles of the field.

Carrying our analysis further, such *teshuvot* writing actually helps to grant their author prestige if the responsa are argued persuasively and many other people come to rely on them. If many laymen, but especially rabbis, begin to follow the rulings of a certain rabbi, then he becomes an authority for them. It may reach a point that a radical position will be taken by that individual *posek* which, if espoused by a novice, would be summarily disregarded, but because this particular rabbi suggested it, it carries authoritative status (of the horizontal sort), if only for those in his community. This is then a case for the horizontal spread of authority.

The contemporary example of the late Rav Moshe Feinstein zt"l, is a clear illustration of this sort of authority. His initial responsa were not incontrovertible, but they displayed a facility of sources and discerning argumentation which accorded their author the status of an authority, a status which grew over time. In Rav Moshe's own words from an interview in *The New York Times*, "You don't wake up in the morning and decide you're an expert on answers. . . . If people see that one answer is good and another answer is good, gradually you will be accepted."⁸ The fact that many rabbis would consult him was an indication of his authoritative position and enhanced it further. It reached the point that he was able, on a variety of issues, to have his analysis accepted as authoritative, even though many of his arguments were debatable.⁹ Thus, Rav Moshe could offer a decision and have it accepted by many Jews even without any reasoned elaboration, although that support could presumably have been offered upon request.

It has now been a number of years since Rav Moshe has died, and the indelible mark he has left on our generation is apparent to every observant Jew. For a certain period, and this may last many years or only a decade, the authority of his decisions, strictly speaking, may be characterized as being of the epistemic sort, in either version: either the rulings are accepted based on their sound reasoning, or they are treated as authoritative because Rav Moshe, a true *gadol ha-dor*, pronounced them. We can easily conceive of many *gedolim* in the past, from the Rambam and Rabbeinu Tam to the Vilna Gaon and the Hafez Hayyim, for whom this equally applied, whose decisions enjoyed this sort of authority.

Now, let us move into the future a bit, anticipating the evolution of Rav Moshe's authority. To a degree, we are already witnessing this development. Many segments of American Orthodoxy have come to see Rav

Moshe as their leader, and have accepted many of his rulings, conducting their affairs accordingly, be it on issues of the status of secular or non-Orthodox marriages, women serving as presidents of shuls, or the permissibility of synthetic materials for *arba kanfot*. We no longer need Rav Moshe's arguments; Rav Moshe's *pesak*, for many people, has become policy, and is thus in little need of reasoned elaboration.¹⁰

Employing Wittgenstein's metaphor, Rav Moshe, in his earlier days, helped deposit some sand at a certain spot in the riverbed. It withstood some of the currents which flowed over it, and Rav Moshe himself then became an ever-increasing force of water ("*ma'ayan ha-mitgaber*") which could move others' sand on its own. Now that many of his positions have become more firmly established in the religious life of American Orthodox Jews, we can take them to be hardening clumps of earth which are actually becoming part of the permanent landscape of the riverbed, although no one is able to predict the ultimate fate of his positions.

We must be careful not to exaggerate his influence, and the refinements to our prior generalizations will help to bring out a few nuances in the concept of authority. An obvious exception to our umbrella term of American Orthodoxy is the Hasidim. A hasidic rebbe is an authority for his Hasidim to the exclusion of any other authority. If he rules on a particular case against the view expressed by Rav Moshe, his Hasidim are not concerned with the competing authorities, because, for the rebbe's constituency, Rav Moshe is just one opinion with which the rebbe may or may not concur. A rebbe may have his own interpretation of the halakhah, or even have overriding reasons to reject Rav Moshe's otherwise sound halakhic analysis. Even if the rebbe accepted Rav Moshe's ruling, the authority it has for the hasid who posed the question is that of the rebbe, and not Rav Moshe. Thus, in any particular hasidic community, Rav Moshe's rulings will not find a place in the riverbed of Jewish tradition, unless the rebbe endorsed them, for, to them, he is simply not the ultimate authority.

The case of a hasidic rebbe also raises the interesting notion, expressed most clearly by Max Weber, of *charismatic authority*. Such authority is based on the community's belief that a certain individual is in contact with, or understands best, what is deemed by that society to be most vital or fundamental, be it how to lead a religious life or how to achieve certain social or political ends. It plays a very important role in Jewish life and practice, but almost exclusively for those who come in contact with the individual himself. Any effort to understand rabbinic authority over the long term, however, requires, as Weber understood it, an appreciation of the institutional structures set up by and within a certain community, rather than a continuing notion of charismatic authority. Thus, it might be charisma which brings the sand into its present position in the riverbed, and even deflects unsettling currents which might displace it. But the process of hardening into a permanent spot in the riverbed is identical for both epistemic and

charismatic authority, that is, when that authority is accepted by a large number of people over the course of time. We might add that few authorities in the rabbinic tradition are exclusively of one type; there was a charisma to Rav Moshe, and there is solid reasoning in a hasidic rebbe's decisions. But if we deal in the more general perception of the individual, it is Rav Moshe's constant appeal to sources in defending his decisions which characterizes him as an epistemic, rather than charismatic, authority.

This contrast of Rav Moshe and a hasidic rebbe is not meant to exclude other examples of competing authority. For many readers of this journal, the Rav, Rabbi Joseph B. Soloveitchik zt"l, who passed away as this article was in press, served in the same role of authority as Rav Moshe did, be it on the issue of secular education, membership of the Rabbinical Council of America and the Union of Orthodox Jewish Congregations of America in the Synagogue Council of America, or saying *Hallel* on *Yom Ha'azmaut*. In the somewhat self-defining community of modern Orthodoxy, it was the Rav who enjoyed the authority of a *gadol ha-dor* and *posek* for some fifty years. But even this must be qualified, and again, a contrast with Rav Moshe is instructive. The Rav, as is well known, was reluctant to publish some of the decisions he has given. This approach has its merits, based on the concern of abuse and misuse of the decision once it is commended to the Jewish *reshut ha-rabbim* (public domain). If one wants to control the application of a decision, it must be confined to only those who asked the question, and who were trusted not to mishandle the decision. But the downside of such a strategy is the inability for others to review the argument(s) used to arrive at that conclusion, hence essentially excluding it as an opinion which may be considered by others when the subject, or a related issue, arises. It undermines the authoritativeness of the Rav's decisions (except to those who have heard the answer from him personally) in that others cannot even be sure whether the Rav continued to endorse the position attributed to him.¹¹ Only those who came directly within the Rav's orbit (or that of his *talmidim*) will be able to consider him an authority. In contrast, Rav Moshe's decisions, whether arguable or not, are available for all to see, to examine, and to analyze. Oddly enough, the Rav's reluctance to publish makes the analogy of him to a hasidic rebbe more direct than that of him to Rav Moshe. While any of the Rav's decisions are undeniably solidly rooted in halakhic argumentation and dialectical reasoning, there is a unique form of Lithuanian charismatic authority, at times dynastic, which best characterized the Rav and his relationship with his *talmidim*.

This comparison of Rav Moshe with a hasidic rebbe and the Rav helps to highlight an important aspect of authority which has been referred to above in passing, and which has been implicit in much of the discussion up to now. That is, any notion of authority is community-specific. Rav Moshe's position was propelled not only by his innate genius, but by the fact that the Agudah community leaders constantly presented him to the laity as *the*

gadol ha-dor. The Rav broke with Agudah on such basic issues as Religious Zionism and the value of secular education; not only were his views on these subjects discounted by the Agudah community, but his broader status as a *gadol* was ignored. Now that the Rav's *talmidim* are well integrated into the wider Yeshiva community, his recently published *shiurim* are widely read in all Torah circles.

It makes little difference whether the community is scientific, legal, academic, or religious. Each one has its own "riverbed," its own layers of bedrock and shifting sand. If we may take the metaphor further, there may be a wide river, with a thick riverbed, which has tributaries running off of it, each with its own course and force.¹² At one time, the split between Hasidim and Mitnagdim would best have been depicted as two similar but separate streams; now, the animosity and divisiveness are gone, and the interactions much more numerous. It thus seems more apt to characterize them as essentially a large river which has forked at a certain point, each riverbed being affected by different factors, and even forming their own, independent topography, but only beyond the fork. (The two forks might even rejoin later into one river again.) Just as the general culture has many specialized "rivulets," each with its own unique contours and configurations, so too Judaism is a large river with certain streams branching off from it in minor, but significantly different directions. The fundamental riverbed is the same, and is re-shaped by large forces which affect all of Jewry. Yet, there are those rivulets with their own bedrock and layer of sand, their own set of assumptions and shifting positions, which give them their unique character, even as they share much in common with other Jews.¹³

While we have been privileged to see the *teshuvot* of Rav Moshe assume a certain position of authority in the halakhic community,¹⁴ moving from possessing epistemic authority to sharing in the authority of tradition, we should be aware that this is simply the most recent example of the phenomenon we called the vertical spread of authority. Certain books gain this same prestige and become the accepted "authority" on a given subject, from the *Shulhan Arukh* and *Mishnah Berurah* to Rabbi Shimon Eider's books and *Shemirat Shabbat ke-Hilkhatah*. Once the community begins to see an author or a work as the authority, he or it becomes authoritative. Most often, especially in the legal context, this stature is achieved only after having proven one's mastery of the material and demonstrating halakhic prowess. Rav Yosef Karo clearly demonstrated his control of not only the Talmud but all the Rishonim's commentaries when he wrote the *Bet Yosef*; his subsequent *Shulhan Arukh* was thus the work of a proven master. With regard to the *Mishnah Berurah*, factors other than the evident erudition of the Hafez Hayyim contributed to its prestige and authority. First and foremost, it "updates" the *Shulhan Arukh*. Many of the customs which had evolved in Poland by the late nineteenth-early twentieth century, as well as the technological advances such as the railroad, were simply not addressed

by either R. Karo's main code or Rama's *Mapah*. Hence, utility is another very important element, aside from level of mastery, in the process which helps grant a particular work or author authority. The same is true of *Shemirat Shabbat ke-Hilkhatah*; it treats most of the problems a Jew in the modern world is likely to encounter with regard to Shabbat, from disposable diapers to hot trays and thermostats.

The notion of utility denotes not merely usefulness, but accessibility. Thus, those works which are straightforward, without too much technical language, succeed in attracting a wide following. The addition of a modern index, rather than a more general table of contents, allows a reader to "look it up himself," without necessarily delving into all the relevant halakhic issues. These two factors, usefulness and usability, have helped to propel *Shemirat Shabbat ke-Hilkhatah* to a level of eminence in a very short time, as well as many English "how-to" books on halakhah, like those of Rabbi Eider, published in America. The phenomenon may be lamentable from an educator's (and other's) point of view, but from the perspective of the analysis of authority, it is an exemplary case of how authority emerges.

Books follow the same pattern as authors; once they are established as authorities in certain areas (such as a compelling chapter or impressive section), often that authoritativeness spreads horizontally to other sections of the work as well. With respect to an individual, that might or might not make sense, depending on the circumstances. Being a *baki* in *Yoreh De'ah* does not necessarily mean one is qualified to *pasken* in *Even ha-Ezer*, although in the eyes of the layman, an expert in Jewish law is an expert in all of Jewish law. The Halakhah (or, more accurately, the institution of the rabbinates) simply assumes that the rabbi's demonstrated competence in one area of law has equipped him to properly research questions in other areas, or it assumes a degree of integrity on the part of the *musmakh* that if he does not know an answer, he will admit it to himself, and either share that confession with the layman or consult with a more qualified rabbi before giving the individual an answer.

Similarly, a book may be cited by a recognized authority for a particular position it takes, and in a short time it is accorded the status of an authority in all its parts. This is extremely hard to control; it is one of the intended purposes of *haskamot*, aside from successfully avoiding censorship or worse. After Rav Moshe quoted the *Kizur Shulhan Arukh* for some of his positions, even though most *poskim* had previously not considered it as a serious halakhic work, it achieved an authoritative status it had not earlier enjoyed.¹⁵ Thus, authority has a way of spreading, not due to any justifiable reasoning or proven competence in that other realm, but simply because the community begins to accord a certain prestige to an author or work, after which it is hard to split hairs, unless ineptitude is demonstrated.

* * *

If our riverbed metaphor for authority is instructive in understanding the process by which a contemporary *posek's* decisions or a halakhic work have achieved a certain status, it is easily transferred to what we initially described as "the Rabbis," our second issue within rabbinic authority. We may speculate that initially, the intellectual prowess of a Rabbi Akiva or a Rava, the demonstrated erudition of a Rabbi Elazar or an Abaye gave them each a position of authority among their colleagues in the *Bet Midrash* and among the laymen of their local communities. However, that reality is too far removed and, for our purposes, turns out to be irrelevant. With the compilation of the Babylonian Talmud in the fifth and sixth centuries, the names and opinions of hundreds of scholars entered the permanent record. Some appeared on almost every page, others less frequently. The resulting document, awesome in its scope and comprehensiveness as well as in its keen dialectic and tireless argumentation, began to be consulted by every major Jewish scholar, especially the rabbis of the Babylonian academies, the *Geonim*. When questions came up, it was the Talmud which was cited. When new situations arose, it was talmudic texts which were compared and analyzed to yield viable rules and principles. Wherever and whenever the Jew had a problem, some solution could be found in the Talmud. Thus, it was the Jewish community which accorded the Talmud authoritative status, finding in it the seeds, if not the actual words, of a solution to virtually every situation which might confront a Jew.

This view is expressly stated by Rambam in his introduction to the *Mishneh Torah*:

Circumstances were such that Ravina, Rav Ashi and their colleagues were the last of the great Sages of Israel who transmitted the Oral Torah and who issued edicts, decrees and practices which spread to all Jews, wherever they were settled. Subsequent to the compilation of the Talmud in the time of Rav Ashi and its completion by his son, Jews were further dispersed, reaching the ends of the earth and the distant islands. . . . Each regional court which was established after the Talmud[*'s* completion] and which issued edicts, decrees, and practices for its locality or neighboring regions, could not reach all Jews because of distant settlements and poor roads. . . . But all the things mentioned in the Babylonian Talmud—all Jews are obligated to follow. And we may coerce every city and district to practice all the practices which were adopted by the Sages of the Talmud, and to follow their edicts and decrees, for all Jews have consented to those things that are in the Talmud.

One may debate the historical veracity of Rambam's claim in terms of the extent of Jewish dispersion in the time of the Talmud and thereafter. Nonetheless, it is clear from this text that the true origin of the Talmud's authority lies in the consent of the Jewish community (in this case, the entire Jewish people) to observe the practices and rules as enunciated therein. It is unimportant for us exactly why Jews did so. But once they did,

talmudic rulings formed the bedrock of Jewish life such that no matter how much sand might shift over it, its contents remain stable and binding. (In its interpretation it remained quite fluid and pliable, given the enormous number of positions recorded in the Talmud. Its authoritative status rests on the fact that every halakhic decision must at least be based on a talmudic text.)

This is not meant to characterize this process as an arbitrary decision, taken randomly at a certain point in history after which there was no turning back. The Talmud was not compiled in a day, and the discussions were not taken up once and then permanently shelved. The image presented, especially by those Amoraim who appear in most of the Talmud, is that these scholars knew a large amount of material, having not only all the *mishnayot* and *beraitot* at their fingertips, but even the comments of earlier Amoraim, teachers and students alike, allowing subjects treated in one generation to re-surface, with new insights, in a later one. Their ability to infer, deduce, analogize, and distinguish displays an impressive command of the entire corpus of Jewish law, an aptitude which no doubt accorded them authoritative status among their peers and in their local communities as well. The laymen and less competent scholars of their generation must have already begun to consult these individuals, deciding rules of conduct based on, for the most part, their sharp and perceptive reasoning (epistemic authority), but probably the force of their personalities as well (charismatic authority).¹⁶

Thus, the community of the Babylonian academy narrowly, and that of Babylonian Jewry generally (and the same holds true for Israel and the Palestinian academies), began to view these scholars as their leaders and their decisors in all realms of human activity, hygiene and medicine as much as halakhah (the horizontal spread of authority). As the written Talmud began to be compiled, the stature of those original "authors," the individual Tannaim and Amoraim, granted the work an authoritative status (the vertical spread of authority). Thus, the Geonim's choice to consult the Talmud is really not random but the continuation of a trend, begun centuries earlier, of seeing these great minds as the ultimate authorities. Much as we consult the *Shulhan Arukh*, Babylonian leaders consulted the transmitted words of their earlier sages, and when the written work appeared with all the opinions and discussions recorded in one book, it naturally assumed the pre-eminent stature originally enjoyed by the individuals themselves whose views are included therein.

Once the Babylonian Talmud contained the words of so many great scholars, the work's authoritative character, in turn, granted the same prestige to every element within it, without distinction, be it the opinion of a relatively obscure Amora, a homiletic employment of a biblical verse, or a conventional cure for an intestinal disorder. Why such statements were included in the final version of the work is an interesting historical question, but for us is irrelevant. From the perspective of a conceptual analysis of authority, the fact of their inclusion in the Talmud guaranteed authoritative

status to virtually everything mentioned in it, from the questions and answers that make up the dialectical argumentation to the actual stories of how Hazal spoke to each other, whether in approval or dissent.

Interestingly, we can discern that the standards of this community, which determine where authority will be invested, have continued down to the present day. That should not be taken for granted. Five hundred years ago, a citation from Aristotle was considered a valid proof for science, as well as for logic. Our laws of valid deduction are only of relatively recent vintage. Compare now the standards of Torah study. Knowledge of a wide range of previous material, as well as a keen ability to subject the material to the surgical tools of logic, were the ideals of the academy two thousand years ago, as they are today. This is precisely the significance of the terms *sinai* (i.e. breadth) and *oker harim* (i.e. depth of analysis) which we encounter in the Talmud.¹⁷ Although the Talmud is debating which should be considered of greater value, it is clear that both qualities are essential in the *bet midrash*. But aside from that axiological question, these two qualities, once possessed, grant the scholar authoritative status in the community. To be sure, with each successive generation, there was always more material to memorize; the advent of printing and accessibility of books only meant that one had to remember where to look it up, instead of remembering all the details of the position or argument itself. (Surely those with photographic memories, such as the Vilna Gaon or the Rogotchover, were thus rendered even more impressive figures, and hence authoritative, with possibly shades of charismatic authority as well.) But, by then, there were so many opinions and works to consult that an exceptional memory remained and continues to be a prerequisite to authoritative status in the community of those who adhere to Jewish law. It remains to be seen how computer technology will impact on the system. Anyone with a telephone modem can gain almost instant *bekiut* in a subject as previously obscure references appear on the screen together with better known sources.

The history of Jewish legal scholarship continued to endow the Talmud with authoritative status, with the Rishonim seeking to reconcile conflicting *sugyot* and displaying a willingness to infer a legal implication from every line and phrase. The Rishonim's treatment of the Talmud may best be characterized as similar to the Talmud's treatment of the Mishnah and the Midrash Halakhah's treatment of the Humash; the very same hermeneutical techniques are employed at every stage. And if the Tannaim's exegesis of the Pentateuch derived from a belief in its divine origin, that claim is not far from the truth when applied to the Amoraim's handling of the Mishnah, or even of the Rishonim's analysis of the Talmud. Each views its predecessor as being, on some level, divinely inspired material, and hence worthy, if not demanding, of the biblical sort of exegesis. Indeed, even the Aharonim's focus on the Rishonim rather than on the Talmud itself serves to elevate the sacredness of the Talmud in their very reluctance to expound it, thus enhancing the authority of the talmudic text.

If our discussion has come to treat the Talmud as some personified entity, as a text with a life, character, and holiness all its own, it is deliberate, for that is precisely the point with which we began. If a rabbi in a sermon reifies a statement of a particular Amora by saying, "There's a Hazal which says . . .", he is merely articulating in another form the main thrust of this essay. The authority he invokes is not that of the particular author of the statement, who for most of us is probably obscure and historically without a context. The force of the statement, and the reason it demands our attention, derives from the fact that it is from the Talmud. The text which absorbed the cumulative authority of the many great sages mentioned in it assumed an authority, even a personality, all its own, entering and actually forming a great deal of Jewish tradition and practice. Its premier position within Jewish culture made the Talmud authoritative by, in essence, identifying Jewish behavior with its prescriptions. It then, in turn, bestowed that esteem and stature on every one of its words, regardless of their origin.

The authority of "the Rabbis" is therefore not epistemic or charismatic, although that of a particular rabbi in his time may have been. Those terms are useful to describe how a *contemporary* individual or theory achieves authoritative status. But once the belief or practice enters a tradition, once it constitutes the riverbed itself, our terms and analysis move from the individual and the standards of the community to the very community itself. It is its way of life, requiring no defense or supportive reasoning. If a community chooses to define itself according to a certain set of beliefs and practices, then those texts which embody that tradition become authoritative. For the People of the Book, where text merges with national identity, authority could find no more appropriate a seat.

NOTES

1. The *Midrash Aggadah* on the Pentateuch (ed. Buber) uses the term *hakhamenu z"l* at the end of *parshat Mattot*. This is an eleventh century work, and most likely indicates a prior, somewhat wider usage.
2. This analysis of how scientific theories achieve authoritative status is presented by Thomas Kuhn in his *Structure of Scientific Revolutions* (second edition, Chicago: Chicago University Press, 1970).
3. In the present philosophical climate, science, too, is seen to be less clear cut and more dependent on one's theoretical perspective than was originally thought. Nevertheless, for the purposes of this essay, the distinction is cited heuristically to show the need for argumentation in establishing one's authority.
4. It is rather common for experts to cross this line, speaking in fields entirely unrelated to their expertise. Thus, Max Nomad once wrote to Albert Einstein, "I don't write on physics: why do you write on politics?" This rather widespread phenomenon owes itself to the sociological aspect of authority, whereby for the common man, an individual possessing extreme brilliance in one area is taken to be smart in all things; he or she is taken as "a very smart person," not "a very smart physicist." Thus, the standing one enjoys in a particular community spreads to society in general, permitting a scientist to voice an opinion on

- politics. See Sidney Hook, "My Running Debate With Einstein," *Commentary* 74 (July, 1982): 37-52. I would like to thank David Horwitz for bringing this article to my attention.
5. The original distinction between *de facto* and *de jure* authority was made by R.S. Peters in a symposium on authority, published in the *Aristotelian Society Supplement* 32 (1958): 208ff.
 6. The case with regard to mathematics is different. If a statement is proven, such as the Pythagorean Theorem, it is not the community which accepts it as true; its authority lies in its proof. While the system of notation and representation may be variable and community-specific, the truth of the statement in math depends not on anyone's authority nor on its acceptance by the community. I would like to thank Joel B. Wolowelsky for this insight.
 7. *On Certainty*, ed. G.E.M. Anscombe and G.H. von Wright, trans. Denis Paul and G.E.M. Anscombe (New York: Harper and Row, 1969), sec. 96-97, 99.
 8. *The New York Times*, March 25, 1986, B6, col. 3.
 9. I heard this from Rav Aharon Lichtenstein in a eulogy he delivered in memory of Rav Moshe at Yeshivat Har Etzion, on Ta'anit Esther, 5746.
 10. It is interesting to note that, despite the rather widespread implementation of some of Rav Moshe's decisions, a recent disclaimer as to the applicability of his rulings appeared on the cover of *Yad Moshe*, compiled by Daniel Eidensohn (Brooklyn, 5747), an index to Rav Moshe's collected responsa. It read as follows:

WARNING!!

It is important to read this before reading the *Igros* with or without the aid of the index.

Knowledge of Reb Moshe's decisions does not qualify a person to decide issues of Jewish Law—even for himself. Do not under any circumstances utilize the *Igros* to decide actual cases. The *Igros* were published specifically for mature Talmudic scholars. The *Igros* provide limited information on how Reb Moshe replied to a particular person for a particular problem in particular circumstances. Even if the reader has correctly translated Reb Moshe's letter (which cannot be automatically assumed even for those fluent in Hebrew) it cannot be legitimately concluded that Rav Moshe would necessarily have made a similar reply to you in your case.

This Index was compiled to increase knowledge of Torah.

Under no circumstances should the Index be used to reduce reliance upon Rabbinic Authorities.

This extensive warning indicates that the process of Rav Moshe's individual decisions being transformed into a virtual new Code of Law has already begun. The caveats of the compiler against misapplication (an understandable qualification) and even against basic misunderstanding of the text (then how could the *Iggerot Moshe* ever be used?) reveal the fundamental discomfort of the wider rabbinic community with Rav Moshe's authority becoming, to a degree, out of control.

11. Recently, the question of a changing position has become a central issue in the debate over heart transplants in Israel. The Chief Rabbinate, accepting Rabbi Moses Tendler's testimony that Rav Moshe expressed his endorsement of brain wave cessation as a criterion of death, relied on Rav Moshe's verbal rejection of his own printed decision considering heart pumping the sole criterion. Rabbi J.D. Bleich insisted that a position, once published, cannot be overturned merely by oral communication. For one example of the rather extensive (and lively) debate between Rabbis Bleich and Tendler, see *The Jewish Review*, vol III, no. 2-5.
12. In the opening lines of his preface to *Rabad of Posquières* (Cambridge: Harvard University Press, 1962), Dr. Isadore Twersky employs a similar metaphor, although he describes Jew-

ish intellectual history as the water of the stream itself. The effect on the underlying layers of sand and bedrock are not incorporated into the imagery.

13. The implications of this analysis for pluralism are self-evident, but I would like to offer one word of caution on its application. I believe that in any culture, the assumptions and attitudes may become so radically disparate between two or more groups such that cleavage will be unavoidable, if not the *de facto* reality. The riverbed analogy can be understood broadly. Rather than being limited to a specific locus in the riverbed, the wide river can begin to fork, or more accurately the contours of the bedrock and sand can begin to alter so radically that in the end there are two streams rather than one. (This seems to be how Twersky uses the metaphor, *supra*, n. 12.) Other streams may join these separate branches and give them force and volume such that each assumes its own character over time. I believe the "one riverbed with several rivulets" characterization is a most apt description of the different forms of Orthodoxy; I am not at all sure of the proper analogy for the relationship of the different denominations of Judaism. This appears to be the heart of the debate between Jewish pluralists and their opponents: have non-Orthodox Jews simply gone too far in their revision of Jewish law and custom such that, despite their common source, the untraditional rivulet is now a totally independent and different stream with its particular riverbed, or does Jewish ancestry forever keep any form of Jewish practice, no matter how revolutionary, close to, if not within, its original riverbed? I raise this only as a provocative metaphor, not as an accurate depiction of the present state of affairs.
14. It would be an interesting investigation to compare the dates of the writing of Rav Moshe's *teshuvot* with those of his decision to publish them. There is a logic here that reflects the *posek's* judgment of his standing in the community and its interaction with him.
15. This was told to me by Rabbi Solomon Sharfman. However, no citations from the *Kizur Shulhan Arukh* are listed in the appendices to the *Iggerot Moshe*.
16. This point is made by Jacob Neusner in the third section of *The Oral Torah* (San Francisco: Harper and Row, 1986). His citations from the Jerusalem Talmud of cases of charismatic authority show that both knowledge and supernatural powers were means of achieving authoritative status in the world of the academy.
17. *Berakhot* 64a.