

- Grossmans (Page 1)
- Helfgot (Page 8)
- Schwartz (Page 11)

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## HALAKHAH MEETS NON-TRADITIONAL APPROACHES TO ENSURING COVID-19 VACCINATION

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As COVID-19 deaths surge, the world is rushing to vaccinate as many people as possible in order to achieve herd immunity and end the pandemic. Epidemiologists estimate that herd immunity might require vaccination of 90% of the population.<sup>1</sup> Israel, which leads the world in COVID-19 vaccination, is unlikely to reach even 70% immunity, as 28% of the population is under 16 and ineligible for vaccination and some minority of adults might have medical contraindications to vaccination. Neither of these populations can contribute to herd immunity, so reaching this goal requires vaccinating virtually every eligible adult. Although nearly 90% of the population over age 60 has been vaccinated, the percentages are substantially lower among haredi and Arab communities. If traditional vaccine approaches are not sufficient to convince them, the government must consider nontraditional methods to encourage or even compel compliance, including a government mandate to vaccinate, employer requirements, and banning the unvaccinated from Jewish communal life.

### Does Halakhah Permit a Government to Mandate COVID-19 Vaccination?

To put the question in context, we must establish some basic legal principles:

Although Israel’s government has discussed the possibility of mandating COVID-19 vaccinations, this is unlikely as long as the vaccine is approved only for emergency use. The United States’ federal government lacks the authority to impose such a mandate. However, state and local governments may do so.

In 1905, Cambridge, Massachusetts, incarcerated Henning Jacobson for refusing a smallpox vaccination and fined him \$5.00. He appealed, claiming that the government had infringed on his right not to be vaccinated. In *Jacobson vs. Massachusetts*, the Supreme Court ruled that when an individual’s right to refuse medical treatment challenges a government’s obligation to protect the health of its citizens and prevent disease, the government may require individuals to be vaccinated. This established the government’s authority to fine those who refuse vaccination and is the legal basis for vaccine requirements in schools.

Subsequent decisions have upheld this position, affirming that when medically necessary, public health overrides the rights of the individual. With this, states may deny the unvaccinated admission to schools, services, and jobs, and may fine or even incarcerate them. In 2019, for example, New York City passed a law fining those who refuse the measles vaccination.<sup>2</sup>

States are unlikely to add COVID-19 to the list of required vaccinations in light of the rarity of adult vaccine mandates and the absence of long-term safety data. Congress could institute a federal requirement by, say, legislating tax exemptions for the vaccinated or tax penalties for those who refuse.<sup>3</sup> Other countries plan to mandate COVID-19 vaccination. The Australian Health Minister suggested that vaccination would be a requirement for everyone entering the country.<sup>4</sup> Switzerland and Malaysia are making COVID-19 vaccination compulsory.<sup>5</sup> Many compare vaccination to wearing a seat belt to drive a car, a behavior that the

government requires for the safety and security of its citizens.

But even if vaccine mandates are legal according to secular law, what about according to Halakhah?

There are three possible avenues by which Halakhah might permit a government mandate to vaccinate. COVID-19 vaccination fulfills several *mitzvot* including *ve-nishmartem meod le-nafshotekhem, lo ta'amod al dam re'ekha*, and *ve-ahavta le-re'akha kamokha*.<sup>6</sup> Virtually all *poskim* strongly encourage or obligate COVID-19 vaccination. If this is a *mitzvah*, and Halakhah permits forcing people to perform *mitzvot*, a government might be permitted to mandate vaccination as a means of encouraging the fulfillment of a religious obligation. In addition, if Halakhah permits compelling people to receive medical treatment, it might also permit a mandate to vaccinate, forcing people to receive the treatment that they need. Finally, if public safety trumps the rights of the individual, Halakhah would favor a government mandate that advances public safety, even at the expense of the individual.

#### **Does Halakhah Permit Forcing People to Perform *Mitzvot*?**

*Rosh Hashanah* 6a describes a Jew who does not want to bring a required *korban*, and concludes that the court may coerce him until he says, "I want to bring the offering." How is this possible when *mitzvot* require intention? *Mishneh Torah, Laws of Divorce* 2:20, explains that Jews inherently want to fulfill *mitzvot*. One only refuses when overcome by his evil inclination. Coercion helps him discover his innate desire to act appropriately. Rambam, *Sefer Ha-mitzvot, Mitzvot Assei* 176 and *Perush Ha-Mishnah Ketubot* 4:6, suggests that the responsibility for enforcing all *positive mitzvot* resides in the *Beit Din* so that the performance of *mitzvot* not be left to the whim of man.

Ramban, *Devarim* 27:26, extends the enforcement responsibility to the *Beit Ha-Melech*, the presiding government, and to appointed leaders as well. According to the Hazon Ish, Halakhah views these leaders as the citizens' representatives, with status equal to the *Beit Din Ha-Gadol* in Jerusalem.<sup>7</sup> The state of Israel in fact implements policies that enforce the performance of *mitzvot*; Israel's High Court sanctions coercing religious observance as long as it fulfills the criteria of promoting a public good or preserving the State's Jewish identity.<sup>8</sup> The prime examples of this coercion is legislation establishing Shabbat and Jewish holidays as national days of rest and the policy that all Jewish citizens who wish to marry, to do so by performing the positive commandment of *mitzvat kiddushin* and marry *ke-dat moshe ve-yisrael*. Since COVID-19 vaccination is a *mitzvah* that promotes the social good of ending the

pandemic and preserving life, Halakhah might permit a government mandate which requires vaccination.

This is not to say that governments have blanket authority to legislate *mitzvah* observance, which may affect whether vaccination should be mandated on halakhic grounds. Hazon Ish (*Yoreh De'ah* 2) suggests that today, when Jews' commitment to *mitzvot* is tenuous, we must limit *mitzvah* enforcement to situations where it will draw people closer to Judaism rather than repel them. It is not clear how the public might react to a COVID-19 vaccine mandate. Given the high social utility of the COVID-19 vaccine, which has the potential to end the pandemic and restore life to normal, it is possible that a government mandate to vaccinate might have a positive impact on *mitzvah* observance, especially if vaccination facilitates a return to Jewish ritual observance, fosters an appreciation for the sanctity of human life, and very clearly promotes the most primary value of Judaism, *ve-ahavta le-re'akha kamokha*, love your neighbor as yourself. Alternatively, the vociferous anti-vaxxer movement may consider a decree to undergo injection with a foreign suspicious substance a personal, unacceptable invasion of the body and confirmation of the intrusiveness of Judaism into the most intimate areas of life. A government mandate might distance those who strongly object to vaccination from *mitzvah* observance.

#### **Does Halakhah Permit Forcing People to Receive Medical Treatment?**

*Bava Metzia* 85b recounts the story of Rabbi, who suffered from an eye condition and refused the treatment that his physician offered because, "I cannot bear it." The doctor found a different treatment and healed his patient. This story illustrates the importance of patient autonomy and suggests that patients may not be forced to receive medical treatment against their will. Alternatively, perhaps Rabbi's refusal was only appropriate because an alternative treatment existed.

When asked whether we consider one who refuses a life-saving treatment on Shabbat to be pious, or a pious fool, *Radbaz* 4:139 rules that he is not only a *hasid shoteh*, a pious fool, but also a murderer whom we may force to receive treatment. *Shulhan Arukh Orach Hayyim* 328:10, rules that if doctors disagree about whether to desecrate Shabbat to save a patient's life, we desecrate Shabbat. Magen Avraham adds that if the patient refuses, we treat him against his will.

The prospect of forcing patients to receive medical treatment is not limited to Shabbat and patients who suffer from misguided sense of piety. *Ya'avetz (Mor U-Ketziah* 328) permits coercion for *refuah vada'it*, treatments with proven efficacy. If the treatment clearly is effective, "we force him

against his will, in order to save a life... the opinion of the patient is not considered relevant, as he is not permitted to take his own life..." However, if the patient has genuine concerns regarding the efficacy of treatment, no matter how unfounded, or if the benefits of treatment are uncertain, we cannot force him to undergo it.

How does COVID-19 vaccine fit into Ya'avetz's classification of treatments that we may force patients to receive? On the one hand, he might prohibit forcing COVID-19 vaccination, since he only allows coercion for treatments of proven benefit. While the efficacy of the vaccine has been established at 95%, its long-term effects are unknown. Although experts believe that adverse effects will be rare, the absence of such data creates some uncertainty about the vaccine. Further, Ya'avetz only permits coercion regarding the treatment of a life-threatening disease, but the vaccine is given to healthy individuals preemptively. In addition, because he prohibits coercion when the patient has genuine concerns regarding treatment, he might prohibit coercion of anti-vaxxers whose refusal to vaccinate reflects deep-rooted fears regarding the safety of vaccines. However, when the claims of anti-vaxxers are outright fabrications, we believe that he would dismiss these outright as they are not genuine concerns. Alternatively, perhaps Ya'avetz would categorize vaccines with 95% efficacy as *refua vada'it* for which we coerce treatment.

*Iggerot Moshe Choshen Mishpat* II:73 restricts coercion to situations where 1. the patient refuses treatment after every effort has been made to find a doctor whom the patient trusts, 2. all doctors recommend the treatment, and 3. waiting until the patient understands that the treatment is beneficial will compromise his health. However, if coercion will cause psychological harm, Rav Moshe holds that the patient may not be forced. Rav Moshe continues in his next *teshuvah* by explaining what forcing a patient to accept treatment looks like in practice. In *Iggerot Moshe Hoshen Mishpat* II:74, Rabbi Feinstein explains that one applies significant pressure to encourage the patient, but one may not "literally force someone against their will, to hold them down and force something down their throat." For Rabbi Feinstein, coercion occurs through education, explaining until the patient understands the value of the treatment.

Rav J.D. Bleich writes that, "Recognized rabbinic decisors... have concluded that, at least in theory, a patient whose life is endangered can be compelled to accept medically-mandated treatment...If the efficacy of the medication or procedure is either substantiated by empirical data or predictable on the basis of cogent scientific reasoning, the therapy is probably mandated by Halacha."<sup>9</sup> Halakhah

permits forcing patients to receive life-saving treatment against their will.

However, the COVID-19 vaccine is administered to healthy patients. Does Halakhah permit forcing patients to receive preventive treatment against their will? In *Tzitz Eliezer* 15:40, Rav Waldenberg applies Ya'avetz's *teshuvah* to the case of ophthalmologic examinations for yeshiva students, and rules that schools and parents have the immediate authority to compel these examinations. Failure to do so violates the biblical commandments of "love your neighbor" and "you shall not remain indifferent." We may even perform preventative examinations against a patient's will. Although *Tzitz Eliezer* permits coercion to ensure compliance with preventative treatment, other *poskim* might not permit coercion for non-life-threatening illnesses or disease prevention. Indeed, Rav Yehoshua Neuwirth, Rav Shlomo Zalman Auerbach, Rav Mordechai Willig, and Rav Hershel Schachter prohibit coercion of vaccination.<sup>10, 11</sup> However, they issued their rulings during normal times. It is possible they might rule differently during a pandemic when everyone without immunity might qualify as ill. In fact, in a personal communication with the authors (April 2021), Rav Schachter stated that in the case of COVID-19, parents may be compelled to vaccinate their child.

If Halakhah does permit forcing medically necessary preventative treatments with proven benefit, such that it would permit a government mandate of COVID-19 vaccination, then what means would be permitted to implement that mandate? *Poskim* disagree over how treatment is compelled: Ya'avetz permits physically forcing the patient to open his mouth and swallow the prescribed medicine, while *Iggerot Moshe* rejects brute force in favor of education. According to Rav Moshe, Halakhah favors patient instruction rather than the use of force. Given the lack of consensus among *poskim* regarding the permissibility of applying brute force to compel treatment, Halakhah might view a punitive government mandate to undergo preventive treatment such as COVID-19 vaccination less favorably than methods focusing on public education.

### **When Public Safety Conflicts with the Rights of the Individual, Whose Rights Prevail? What Steps Does Halakhah Permit to Protect Public Safety?**

Halakhah permits interventions that force individuals to protect their health and avoid harming others. *Bava Batra* 8 states that all members of the community must contribute to building a fortification wall, even orphans and the poor, suggesting that in light of public safety the government may force all members of society to contribute to the greater good. In *Tzitz Eliezer* 15:39, Rav Waldenberg concludes that

the public may ban smoking in public places to prevent smokers from polluting the air and harming others with second-hand smoke; similarly, one may publicly castigate smokers who foul the public air. In support of this position, he quotes *Hayyim Sha'al Le-Hidah* 26, who permits banishing an individual who harms a public bathroom. Rambam *Hilkhhot Rotzeah U-Shemirat Ha-Nefesh* 11:5 writes, "The sages have prohibited many things because they are dangerous to life. If anyone disregards them and says 'What claim have others on me if I risk my own life?' or 'I do not mind this,' he should be lashed for disobedience." *Shulhan Arukh Hoshen Mishpat* 427:1 codifies this position. *Be'er Ha-Golah* explains why Halakhah punishes one who harms himself and others: By refusing to take steps to protect his health and endangering himself, this recalcitrant individual displays the most brazen form of heresy, demonstrating that he despises the will of his creator and wants neither to serve Him nor to receive any reward from Him. How much greater his offense and the need for sanctions if his failure to care for himself compromises others? *Mishneh Torah, Laws of Talmud Torah* 6:14, invokes excommunication as a legitimate mechanism to compel the individual to remove a public hazard. When the rights of the individual threaten public safety, Halakhah prioritizes measures that protect the public, including taxes, banning the offender from public areas, lashes, and excommunication.

Rav Yuval Cherlow addresses the halakhic permissibility of a COVID-19 vaccine mandate and rules that the government may and perhaps must sanction those who refuse it.<sup>12</sup> Ethics and morality protect an individual's free will, especially when dealing with a new technology such as the COVID-19 vaccine. However, society's right to protect itself from infection prevails over the individual's right to refuse vaccination. We must not allow those who refuse to be vaccinated to harm others. Rav Cherlow justifies sanctions against these people because they are putting themselves at high risk of infection, which they can transmit to others. In addition, infection adds stress to an already overwhelmed healthcare system and the economy. Rav Cherlow notes that we view a kohen who infects others because he has neglected himself as a *shofekh damim*, a murderer, who may not recite the priestly blessing. He proposes the following criteria to ensure that a COVID-19 vaccine mandate is just: Restricting it to situations where the risk of infection is great, such as large gatherings; basing it on epidemiological data; ensuring that it is proportional to the level of risk; and preventing unnecessary harm. For example, he argues against a vaccine mandate for admission to school, since the vaccine is not currently available for children. Thus, while the government may sanction those who refuse COVID-19 vaccination, those

sanctions should use the least intrusive mechanisms to achieve the desired results. Despite halakhic sanctions for the use of brute force against those who threaten public safety, it would appear that Rav Cherlow does not favor this approach, preferring gentler interventions.

### **Are Citizens Obligated to Abide By Government Mandates?**

Rav Asher Weiss and Rabbi Hershel Schachter believe that *dina de-malkhuta dina*, the halakhic principle that we adhere to the law of the land, extends to all laws that benefit the public, including vaccinations.<sup>13, 14</sup> Once the government mandates the COVID-19 vaccine, everyone must comply with that law, based on this halakhic principle. Thus, while citizens have the right to talk on a cell phone, drive, and visit public areas, when they contravene government legislation by driving above the speed limit or while talking on the phone, or by visiting a public area maskless or unvaccinated during a pandemic, the government has the right to sanction them with a fine or ticket.

Rav Aryeh Stern, Ashkenazi Chief Rabbi of Jerusalem, limits *dina de-malkhuta dina* to *mitzvot* related to monetary matters, and believes that instead, the obligation to adhere to government COVID-19 regulations, even at the expense of *mitzvot* such as learning Torah and communal prayer, derives from the unique power entrusted in the government of Israel as the representative of the Jewish people. With the end of Jewish kingship, the authority to rule over the Jewish nation passed to the nation as a whole and those who represent it; the government of Israel has the authority to impose even those COVID guidelines that interfere with *mitzvot*. Thus, Rav Stern might distinguish between the COVID-19 vaccine mandate of an Israeli government that represents *am Yisrael* and one from other governments, which lack this status.

In summary, Halakhah might permit a government mandate to undergo COVID-19 vaccination if the mandate enforces the performance of *mitzvot* that promote the public good and Jewish values. Halakhah would also allow a mandate that compelled medical treatments of proven benefit for active life-threatening diseases and perhaps even preventive measures permitting interventions which encourage patient education and other nonviolent measures while shunning brute force. Halakhah would also permit government sanctions against the recalcitrant individual who engages in behavior which threatens public safety. Having infected more than 150,000,000 individuals worldwide and led to the death of over 3,000,000 worldwide, COVID-19 poses a major threat to public health with devastating effects on the global economy. As such,

Halakhah would permit public measures to enforce vaccination with the caveat that such measures are proportionate, epidemiologically sound, and designed to minimize collateral damage to the unaffected.

### **Vaccinate or Terminate: How does Halakhah Approach an Employer's Mandate to Vaccinate?**

In addition to government mandates for the COVID-19 vaccine, the private sector has also discussed implementing policies to restrict the participation of those who refuse COVID-19 vaccination. Does Halakhas allowance of sanctions against the unvaccinated extend to the private sector, permitting employers to refuse employment to the unvaccinated?

Vaccination will facilitate a return to the workplace and restore our economy. In a recent survey of 150 executives, 71% supported companies requiring COVID-19 vaccines.<sup>15</sup> United Airlines plans to require all employees to be vaccinated. Mobileye will only allow vaccinated employees into the workplace, requiring the unvaccinated to work from home or undergo COVID-19 testing every two days.<sup>16</sup> The Israeli Education Ministry is considering requiring vaccination for teachers. The Health Ministry might limit unvaccinated employees from entering workplaces with direct exposure to the public. Prime Minister Netanyahu defended this, citing a law enforced during the 1950s that required vaccination and imprisoned those who refused.<sup>17</sup>

A vaccinated workforce offers several benefits: Immunized employees have fewer absences and are less likely to expose others to infection, which eliminates the need for quarantine and closure due to exposure. Vaccinated employees may safely serve customers and will have less COVID-related anxiety. Customers will be more willing to meet with vaccinated employees. In the absence of a vaccine mandate employees could claim that their employer failed to provide a safe work environment. Schools, long-term and childcare facilities, and even stores with fully vaccinated staff can advertise their workers' immunity to attract customers.

The greater the likelihood that an unvaccinated employee will endanger customers, fellow employees, or the public, the stronger the argument for an employer vaccine mandate. This is especially true for healthcare workers and employees of nursing and long-term care facilities whose patients are at higher risk of illness. Office-based businesses or those whose employees work remotely might find a vaccination requirement less relevant.

The Equal Employment Opportunity Commission (EEOC) has issued guidance that employers may encourage or require

COVID-19 vaccinations because the virus is rampant and easily transmitted in the workplace, and employers are obligated to create a safe work environment.<sup>18</sup> If an employee refuses to be vaccinated, the employer must prove that he poses "a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation" (such as allowing him to work remotely or take a leave of absence). Employers must make accommodations for employees with medical exemptions. In contrast, an employer must accommodate those who claim religious or philosophical exemption only if it can be done with no burden to the employer. The cost of employing an individual with religious objections to vaccination is substantial. Since vaccination is available to all, requiring it would not qualify as discrimination. In addition, as long as vaccine mandates do not single out a religious group, they do not violate religious freedom.

Halakhah would strongly endorse and perhaps even obligate policies that create a safe, COVID-free work environment. Devarim 22:8 describes the *mitzvah* of *ma'akeh*, constructing a railing on the roof of one's home: "When you build a new house, make a railing on your roof, and don't bring bloodshed on your house if someone falls from it." *Sifrei Midrash Halakhah* concludes that the repetition of the word "house" teaches that the obligation of *ma'akeh* applies not only to the house where one lives but also one's storage area. *Mishneh Torah, Laws of the Murderer and Protecting Life*, 11:4 extends the *mitzvah* of *ma'akeh* to "any other object of potential danger by which it is likely that a person could be fatally injured." Rambam broadens the *mitzvah* even further as encompassing any situation which endangers life, including illness. Thus, the obligation to construct a *ma'akeh* is a broad requirement to remove dangerous objects from one's environment, including illness. *Hazon Ish Volume 11 Hoshen Mishpat Likutim* 20 explains that one can preserve life either by creating a safe environment or by avoiding danger. For example, one may prevent a fall from the roof either by being careful on the roof or by placing a railing on it.

For rare dangers, vigilance is sufficient. Where it is impossible to exercise constant vigilance, one must take additional steps to ensure safety. Because workers cannot remain vigilant about avoiding work-related danger at all times, the general work setting must be safe. *Be-Tzel Ha-Hokhmah* 4:115 explains that the *mitzvah* to construct a *ma'akeh* applies to the workplace because people spend a significant amount of time at work. Indeed, the language that *poskim* use to determine when one must construct a *ma'akeh* is "where people are accustomed to do their work," reflecting the importance of creating a safe work

environment. A worker will exercise vigilance to avoid occupational hazards directly related to her job but all other dangers must be removed. For example, a worker must wear goggles and protective gear when using a blowtorch. This fulfills the *mitzvah* to “take care and guard your spirit” (Devarim 9:4).

For those dangers from which employees cannot be constantly vigilant, such as an open roof or COVID-19 infection, employers have an obligation to construct a *ma’akeh*. Even with careful masking, hand washing, and social distancing, people can become infected with COVID-19 at work. The employer can fulfill his halakhic obligation to create a COVID-19 safe workplace by encouraging vaccination through education and positive incentives, creating vaccine friendly work policies such as paid leave on the day of vaccination and bringing vaccines to the workplace, and leading by example. But the Halakhah of *ma’akeh* would also permit and perhaps even obligate a vaccination-or-termination policy to protect employees from our contemporary equivalent of “an object of potential danger, by which it is likely that a person could be fatally injured.”

A number of halakhic authorities have supported a policy requiring workers to undergo COVID-19 vaccination and terminating those who refuse. When asked if an employer who requires his employees to receive COVID-19 vaccinations may demand that they sign a waiver absolving him of any potential danger associated with the vaccine, Eretz Hemdah prefaced their response by saying that based on *Shulhan Arukh Orah Hayyim* 328:10, which establishes the obligation to adhere to physician’s recommendations, all should follow public health guidelines.<sup>19</sup> It is noteworthy that Eretz Hemdah presents the obligation to follow the guidance of physicians in its introduction, emphasizing the indisputable nature of this principle. This suggests that Halakhah would permit or possibly obligate an employer to require vaccination, especially if physicians, public health organizations, and governmental bodies have mandated it.

Halakhah would allow for legal action against employees who refuse COVID-19 vaccination and then put themselves in situations where they might endanger others. Rav Yaakov Ariel ruled that parents could sue a teacher who refused to be vaccinated and subsequently developed COVID-19, sending his students into quarantine over Purim. He classified the teacher as a *rodef* (pursuer) but specified that he did not merit the death penalty. The parents could demand compensation for *tsa’ar* (pain) and injury in the form of lost days of work and learning, isolation from family and friends, and disconnection from the joy of Purim.<sup>20</sup> The teacher could not claim innocence since failure to vaccinate

in a timely manner is a crime, especially because teachers had priority for vaccination. Because the teacher had full knowledge that COVID-19 is a contagious disease, his entering the classroom unvaccinated constituted a grievous offense. Rav Ariel called on parents to speak out against teachers who refuse vaccination because the rights of our children to be healthy trump the rights of the individual teacher to infect them and endanger their lives.

### **How Does Halakhah Approach Policies that Ban the Unvaccinated from Jewish Communal Life?**

Proof of COVID-19 immunity might be required not only to fly on an airplane or enter cultural events but also to participate in Jewish communal life. There are several reasons why restricting synagogue attendance to the vaccinated might not be feasible. First, it would require all attendees to register prior to prayers. Second, enforcement of the ban requires placing guards at the synagogue entrance to identify the vaccinated and those recovering from COVID-19. Finally, it would keep children below age 16 for whom the vaccine has not yet been approved from attending, and for many, this is unpalatable.

Does Halakhah permit restricting participation in Jewish communal life to the vaccinated? As noted, *Mishneh Torah, Laws of Talmud Torah* 6:14 allows excommunication for someone who “has something harmful on his property...” Rambam’s inclusion of the laws of excommunication in the laws of Talmud Torah suggests that bans such as these might apply even at the expense of learning Torah. Rama *Yoreh De’ah* 334:1 rules that the *Beit Din* has the authority to impose sanctions on someone until he removes a dangerous object. It may prevent his burial and the circumcision of his children, and ban their children from school and their family from synagogue.

There is halakhic precedent for not allowing the unvaccinated to attend synagogue during a pandemic. In November 2018, in response to a measles outbreak, the Agudath Israel wrote, “It is incumbent upon all members of the community to ensure that they and their children receive measles vaccination. Even for those not inclined to vaccinate, this is required of them based on the principle *chamira sakanta me’issura*. In addition, there is an obligation to be vaccinated based on the *mitzvah* of *ve-nishmartem meod le-nafshotekhem*. Nobody has the right to endanger others by not vaccinating their children. This is a violation of *lo ta’amod al dam re’ekha*. Furthermore, during a time of measles outbreak, exposing others to an unvaccinated individual is equivalent to an act of *rodef*. We urge all schools, playgroups and *shuls* to ban any child or adult who has not been vaccinated. This is nothing less than a matter of *pikuah nefesh*.”

Many *shuls* have already instituted policies that restrict attendance in order to prevent COVID-19 infection, banning the quarantined, those with symptoms of COVID-19, and even those returning from foreign travel or, in the US, a different state. Proof of immunity or vaccination as a requirement to attend *shul* is a natural extension of these policies. In Deerfield Beach, Florida, when *shul* members organized a rogue *minyan*, the board stripped them of any position within the *shul*, denying them *kibbudim*, *aliyot*, and the opportunity to lead the service or give *shiurim*. These efforts were designed to send a message regarding the importance of complying with safety measures.

Ashkenazi Chief Rabbi of Israel, Rabbi David Lau, suspended a judge who served on the state's rabbinical conversion court for refusing COVID-19 vaccination, stating, "A judge who does not get vaccinated will not be able to serve in his position and endanger those who come to the court; it is forbidden for a person to damage his own body and all the more so that of someone else."<sup>21</sup> Rav David Stav, chairman of Tzohar (which provides religious services to and creates dialogue with the broader Israeli population), has restricted all unvaccinated representatives of the organization, including rabbis performing weddings, *kallah* teachers, and *bar mitvah* instructors, to interacting on zoom. "G-d forbid that our strong desire to bring good news and family sanctity will spread the disease."<sup>22</sup> Similarly, Rav Zalman Baruch Melamed, the head of the Beit El Yeshiva, has prohibited unvaccinated *avrekhim* from attending the *Kollel*.<sup>23</sup>

*Poskim* have addressed the halakhic permissibility of vaccination requirements in the context of routine childhood immunizations. Rav Elyashiv has stated that parents have the right to demand that all children attending school receive these vaccinations.<sup>24</sup> Similarly, Rav Yitzchok Zilberstein ruled that school administrators have the authority to restrict admission to the vaccinated.<sup>25</sup> He

derives this position from Rama *Yoreh De'ah* 334:6, which suggests that even when children are completely innocent, the *Beit Din* may punish them for the misdeeds of their parents as a way to pressure the parents to correct those misdeeds. The policy of banning unvaccinated children from school punishes parents who refuse to vaccinate them and protects students from infection.

As unpalatable as we might find policies that ban the unvaccinated from synagogue or schools, Halakhah permits them to promote public safety.

### Conclusion

In the last year, the COVID-19 pandemic has subjected the world to the contemporary equivalent of Noah's flood, forcing us into our metaphorical arks – the safety of our homes – to protect us from the deluge of the virus. When the flood ended, G-d gave Noah seven *mitzvot*, including the obligation to establish a judicial system to prevent the development of another such catastrophic event. In *Laws of Kings* 9:14, Rambam limits this commandment to the enforcement of the other six Noahide *mitzvot*. Ramban, in his commentary on Bereishit 34:13, broadened this to require a legal system that would also adjudicate matters of "theft, abuse, usury, labor relations, damages, loans, business, and the like, just as Israel was commanded to set up laws in these matters." In modern times, Israeli courts have extended the jurisdiction of our legal system to enforcement of policies encouraging COVID-19 vaccination.<sup>26</sup> May we merit the receding of the waters of our contemporary flood and emerge from our homes to a new COVID-19 reality. In this new reality, several policies, including government mandates to vaccinate, workplace policies of vaccinate-or-terminate, and bans on the unvaccinated from Jewish communal life might be implemented to ensure public safety. Halakhah permits each of these policies. However, it instructs us to begin with education and gentle guidance.

<sup>1</sup> Donald G. McNeil Jr., "How Much Herd Immunity is Enough?" *New York Times*, December 24, 2020.

<sup>2</sup> Mark Osborne, "New York City Offers Fines of \$1,000 to 3 People Who Refused to Be Vaccinated Against Measles," *ABC News*, April 19, 2019.

<sup>3</sup> *National Conference of State Legislators*, "States with Religious and Philosophical Exemptions from School Immunization Requirements," January 29, 2021.

<sup>4</sup> *BBC News*, "Coronavirus Vaccine: Australia Rules Out Mandatory Immunisations," August 19, 2020.

<sup>5</sup> *DevelopmentAid*, "Obligatory Coronavirus Vaccines - What Are Governments Around the World Saying?" June 30, 2020.

<sup>6</sup> For a full discussion of this topic please see Sharon Galper Grossman and Shama Grossman, "Halakha Approaches the COVID-19 Vaccine," *Tradition Online*, October 20, 2020.

<sup>7</sup> *Hazon Ish - Laws of Shehitah* 2:16.

<sup>8</sup> The High Court of Justice 5073/91. *The Israeli Theaters LTD. Against The City Hall of Netanya and Others* Judgment (3): 192, 206-207.

<sup>9</sup> J. David Bleich, *Contemporary Halakhic Problems: Volume 1*: (New York: KTAV/YU, 1977), 93.

<sup>10</sup> *Nishmat Avraham: Hoshen Mishpat* 427.

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<sup>11</sup> Asher Bush, “Vaccination in Halakhah and in Practice in the Orthodox Jewish Community,” *Hakirah* 13 (Spring 2012): 198.

<sup>12</sup> Yuval Cherlow, “Is There a Halakhic Obligation to be Vaccinated Against Corona?” (Hebrew), *Shabaton*, December 15, 2020.

<sup>13</sup> *Minhat Asher* 2:121.

<sup>14</sup> Aaron Glatt, *et al.*, “Compelled to Inoculate: May Parents Refuse Vaccinations for Their Children?” *Journal of Halachah and Contemporary Society* 65 (Spring 2013): 55–72.

<sup>15</sup> *Yale School of Management*, “Virtual Yale CEO Summit: Finding Common Ground across a Divided Land,” December 15, 2020.

<sup>16</sup> Zev Stub, “Mobileye to Ban Employees Not Vaccinated for Coronavirus,” *The Jerusalem Post*, February 24, 2021.

<sup>17</sup> Maayan Jaffe-Hoffman, “Coronavirus: 1/1,000 Chance of Contracting COVID-19 If Vaccinated - Study,” *The Jerusalem Post*, February 17, 2021.

<sup>18</sup> *U.S Equal Opportunity Employment Commission*, “What You Should Know About Covid-19 and the ADA, the Rehabilitation Act, and Other EEO Laws,” December 16, 2020.

<sup>19</sup> *Eretz Hemdah - Ask the Rabbi*, “Workplace Requirement for Vaccination,” January 15, 2021.

<sup>20</sup> Yaakov Ariel, “Is it Possible to Sue a Teacher Who has Not Been Vaccinated?” (Hebrew), *Yeshiva*, February 24, 2021.

<sup>21</sup> Jeremy Sharon, “Chief Rabbi Lau Suspends Rabbinical Judge for Refusing COVID Vaccine,” *The Jerusalem Post*, February 17, 2021.

<sup>22</sup> *Kipah News*, “Chairman of the Tzohar Rabbinic Organization: We Will Not Send Unvaccinated Rabbis to Perform Marriages” (Hebrew), March 5, 2021.

<sup>23</sup> Arutz 7, “Rabbi Zalman Melamed: Avreikhim Who Will Not be Vaccinated Will Need to Find Another Kollel” (Hebrew), March 2, 2021.

<sup>24</sup> Asher Bush, “Vaccination in Halakhah,” 200.

<sup>25</sup> R. Yitzchok Zilberstein, “Letters: Vaccination,” *Journal of Halachah and Contemporary Society* 69 (Spring 2015): 96–102.

<sup>26</sup> An Israeli court recently ruled in favor of a school which banned a teaching assistant who refused to provide proof of vaccination. See Reuters Staff, “Israeli Court Upholds School’s Barring of COVID Refusenik Teacher,” *Reuters*, March 12, 2021.

H

## TAKING RESPONSIBILITY FOR HALAKHIC GUIDANCE: A RESPONSE TO EZRA SCHWARTZ

**NATHANIEL HELFGOT is the spiritual leader of Congregation Netivot Shalom in Teaneck, NJ, and the chair of the Department of Torah She-Ba’al Peh in SAR High School in Riverdale, NY.**

In his recent thoughtful essay, R. Ezra Schwartz notes a paradox: while shul life during COVID lockdowns became more decentralized, halakhic decision-making became more and more centralized. In the second part of his article, he pointed to the use of WhatsApp groups where rabbis shared best practices and most significantly turned to selected *poskim* for guidance on a myriad of issues. The written responsa to those queries were then communicated to hundreds, if not thousands of rabbis throughout the country. R. Schwartz clearly supports this phenomenon, as he writes, “The pandemic has brought forth a degree of *centralization that has for too long been lacking* or perhaps never before attained in Modern Orthodox communities.”

He notes some of its upsides, such as a shared sense of community among rabbis who often felt isolated in confronting their challenges, but then more significantly he writes: “Of equal, if not greater importance, the position of *posek* truly emerged in Modern Orthodox communities.” R. Schwartz celebrates this growing centralization of *pesak* in the Modern Orthodox community and hopes that it will outlive the country and our community emerging, please God, from the pandemic. Much of R. Schwartz’s insights resonate greatly and are very much on point. I, do, however, think that there are downsides to this phenomenon of centralization that we need to confront clearly and forthrightly.

But first let me start with a personal story leading to some reflections.

One afternoon in mid-2002, my phone rang, and when I picked it up, the familiar baritone voice on the other end said, “Shalom, Nati, it is Aharon Lichtenstein here.” After I gulped and gained my composure, my revered rebbe *zt”l* told me that he was in the process of collecting some of the essays he had written over four decades for publication (the volume came out in 2003 as *Leaves of Faith: The World of Jewish Learning*). He indicated that he was reviewing a manuscript of a lecture he had given in 1966 to the Rabbinic Alumni of RIETS-Yeshiva University and was considering including in the book. He asked if he could send it to me so that I and a few other students in *avodat ha-kodesh* would peruse it and give feedback on a number of points such as whether it was too dated to publish. The request, of course, took me aback, but was, of course, reflective of Rav Lichtenstein’s deep humility, as well as respect for his *talmidim*. I dutifully acceded to his wishes. The essay was eventually published as Chapter 6 of the volume mentioned above under the title: “Get You Wise Men: Marshalling the Rabbinic Alumni to Meet Contemporary Halakhic Problems.”

In that essay, Rav Lichtenstein chose to focus on the topic of personnel, and specifically how to develop a cadre of modern day *morei hora’ah*, *rashei yeshiva*, *poskim*, and high level *lomdim* to explore and handle the halakhic challenges facing the community. In that context, he included a passage about how we treat *gedolei ha-poskim* that has stuck with me for close to twenty years since first reading the yellowing typewritten manuscript and has re-emerged in my consciousness as this strange and challenging year has unfolded.

The passage reads:

What opportunity do we allow them [*gedolei ha-poskim*] simply to think—or for that manner, to learn? How much of their time is truly theirs—to reflect upon both immediate and ultimate realities, to observe the present and relate it to a transcendent past and future? ...

From personal observation I am familiar with the incessant jangle of the telephone in the Rav’s [R. Joseph B. Soloveitchik’s] home, and I gather from Rebbetzin Feinstein—as if one couldn’t have envisioned it—that the situation in her

home is generally worse. I know that both the Rav and Rav Mosheh Feinstein are extremely conscientious about accepting *she’eylot*, answering them even when they might be inclined to decline other calls; and I have heard neither complain about this particular onus. Yet I cannot help but ask myself two related questions: How often have they had a train of thought interrupted by a call? ... How many fleeting insights have gone the way of the latter part of “Kubla Khan”? ... What the cost in unwritten essays and unedited *hiddushim*? Second, is their burden, indeed inevitable? Could not many, if not most of the *she’eylot* have been easily answered by men of lesser stature? Must every *be’atha be-cutha* [small issue] be referred to *gedolei ha-dor*?

Rav Lichtenstein then goes on to outline a series of proposals including creating regional centers where people of learning—but of the second and third rank—would handle questions that would not require the input of *gedolim* and only questions that truly reach the level of *ha-davar ha-kasheh* (very difficult matters) would be brought to the attention of the titans.

He then goes on to outline the benefits of this proposal and among them writes:

Second, such a program would provide fresh *élan* for the participating rabbis. It would challenge them intellectually and engage them communally. It would overcome the helplessness that many feel in attempting to bridge the gap between Halakhah and *ma’asseh*. And, of course, as an aspect of *shimmush*, it would constitute an invaluable apprenticeship for future first-rank *poskim*.

These words came back to me these last few months as we in the rabbinic community were presented with myriads of questions about how to practice Jewish ritual life in the face of the dangers unleashed by COVID-19 and the subsequent restrictions put into place to “flatten the curve,” save lives, and help ensure that our healthcare system not be overwhelmed and collapse. Thousands of communal rabbis throughout the world were asked by their congregants to opine on a wide range of topics, from the most serious to the relatively trivial. We continued to be asked for guidance as the *Yamim Noraim* approached and the many details of

prayer and *mitzvot* associated with this auspicious time came to the fore. This phenomenon created a great surge in people exploring how Halakhah handles crises and what tools are at the disposal of a halakhist in addressing life lived *in extremis*.

Piggybacking on Rav Lichtenstein's comments from fifty-five years ago, the issues he raised have emerged in our present situation. Since those early days leading up to *Pesah* 5780 when the whole world shutdown, I have dutifully followed the discussions on the various rabbinic listservs that I am on and reviewed many of the written halakhic decisions related to the effects of the coronavirus issued over the last year. There is no doubt that especially in the early stages of the pandemic and lockdown, many difficult and challenging questions emerged that required the halakhic expertise of *gedolei ha-poskim* and their broad shoulders. It was clear that questions of rationing lifesaving ventilators, triage questions of life and death, or permitted use of electronics on Shabbat and Yom Tov were questions that needed to be addressed by the highest echelons of the halakhic hierarchy. Indeed, I vividly recall a talk the recently deceased president of Yeshiva University, R. Norman Lamm *zt"l* delivered one Shabbat during the late 1980s when he visited Camp Morasha and I was working on the *hinukh* staff. In passing, he quipped that any rabbi who decided a halakhic question related to disconnecting a patient from a respirator without consulting with a senior *talmid hakham* and *posek* would have his YU *semikhah* retroactively revoked!

However, many of the questions that were raised and addressed hardly rose to that level of complexity and challenge. And yet, those questions too were automatically forwarded to leading *poskim*. Just as one saw communal rabbis turning to leading rabbinic decisors to address whether donating plasma on Shabbat to help Covid patients was permitted under the rubric of the dispensation of *pikuah nefesh*—saving a life—another rabbi posed the question of whether to skip *yekum purkan* while praying privately at home to that very same *posek*. And the dissonance of the juxtaposition felt sharp and clear. Echoing Rav Lichtenstein's words about how not all questions are of equal difficulty and significance, one immediately wondered if the question of whether one can skip some of the *pesukei de-zimra* or *anim zemirot* to abridge services during these times, whether one needed to

make up *parshiyot* that were missed when shul was closed, or whether one could open the ark with gloves on really required the attention of *gedolei ha-poskim*. Were rabbis of the second, third, and fourth tiers not capable of handling these questions, many of which are explicit in the halakhic codes and their commentaries?

As Rav Lichtenstein noted, this practice and modality of dealing with halakhic queries, in addition to diverting the time and attention of the leading lights away from more pressing issues and research, undermines the ability of younger and developing rabbis to grow in their learning, achieve greater heights, and become more serious and experienced halakhists. Moreover, it deprives them of the ability to step up and lead their communities with responsibility and confidence. Finally, it bespeaks a certain lack of confidence in the lower echelons of the halakhic hierarchy and makes people too dependent on turning to one or two figures on all matters.

Also, this approach can swing the pendulum too far in the direction of concentrating halakhic responsibility and direction in the hands of only one or two figures, a centralization that has costs: it can undercut local authority and homogenize halakhic practices when an issue may be better suited to a multiplicity of approaches depending on local circumstances and the needs of the specific questioner. In addition, it can perhaps create too much dependence on one figure, great as he may be, which could foster a potentially unhealthy relationship of control and deference to authority even in situations where it is not warranted. The failure to inculcate an appropriate measure of autonomy for communal rabbis and encourage younger halakhic voices can undermine a rabbi's relationship to his community, to the ultimate detriment of his ability to implement and connect congregants to halakhic norms.

A great deal of halakhic creativity and vitality has emerged as Jewish law has confronted the challenges that have emerged in 2020. It would be a pity if developing the expertise and independence of younger *talmidei hakhamim* and communal rabbis—while of course still allowing *gedolim* to address the most novel and difficult issues—was not fostered and developed in the midst of this crucible.

## DECENTRALIZATION AND CENTRALIZATION: A COVID TALE OF THE MODERN ORTHODOX COMMUNITY

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**A**s we begin to finally see the light at the end of the dark tunnel of COVID-19, a lively conversation about the future of synagogues has begun. I am no longer a pulpit rabbi serving in a shul. But I remain a rabbi, and I remain deeply interested in the goings on in the Modern Orthodox community. Therefore, I prefer a different conversation, not one specifically about synagogues, but about communities and rabbis.

To my mind there are two changes that COVID has brought to Modern Orthodox communities, and of necessity to rabbis. These two changes seemingly go in opposite directions; one reflects increased decentralization and communal fracture, the other conversely speaks to greater centralization. When taken together however, these two changes have much to say about future directions for the Modern Orthodox world.

I.

Changes to shuls began long before COVID. Large synagogues have been in decline for some time. *Shtiebels* with their more energetic and community involved *tefillot* have been popping up everywhere. Certainly, the mega shul with a *Hazzan* is a genuine rarity in the early twenty-first century. Those large synagogues that have continued to thrive are effectively many shuls housed in a single building. Often these synagogues have an entire rabbinic staff to cater to the different tastes—such as Yeshivish *Beis Medrash* style, Hasidic style, Sephardic, young professionals, and youth—of the various groups that happen to be housed together. But even that model may have run its course. COVID has closed the door, possibly long-term, on the American mega shul, even with all its diversity.

One problem for the mega shul is that backyard *minyanim* seem to be here to stay. Unlike before COVID, the backyard *minyan* is no longer limited to Friday night and Shabbat *minhah* prayers. It has emerged as the go to place for all *tefillot*. Those who out of necessity invested in heated tents to host *minyanim* in their backyards may be hesitant to return to davening regularly in the big shul. Even a comfortable pew in an aesthetically pleasing synagogue

pales in comparison to the comfort and beauty of the great outdoors.

To navigate this new reality, the successful suburban rabbi, more than ever, will have to reach those who do not enter the synagogue portals. In some communities, he may have to move from backyard to backyard, from *minyan* to *minyan* and *kiddush* to *kiddush* to have a broad impact. He will have to find ways to engage those who even if nominally are members of the congregation, are certainly not regular participants.

Backyard *minyanim* are a challenge for large suburban shuls. They present less of an obstacle for the urban shul. However, even in urban environments, COVID has accelerated the decentralization of communities. Many may return only seldom to the synagogue. Those who spent large periods of time away from shul may be hesitant to return at all, certainly to the large one they previously attended. In short, rabbis will tend to smaller flocks in the pews. Cavernous sanctuaries are unlikely to once again overflow.

There are various reasons for this. For one, people have become habituated to praying elsewhere. But further, the American synagogue, particularly the urban synagogue, is largely modeled after Mordecai Kaplan's Jewish Center. Kaplan saw the synagogue as a place for so much more than prayer. Although in most shuls nowadays there is likely no pool and no school, the shul nonetheless remained the center of a community's social life before COVID. Shabbat morning youth groups entertained and educated the children. The *kiddush* nourished and entertained (though likely not educated) the parents. Absent youth groups and absent a *kiddush*, if that's where we are headed in a post-COVID world, the American shul model barely stands upright and can be expected to do little more than limp. If all that remains is the core of *tefillah*, it is entirely possible that only the most dedicated will return to their old shul.

In urban centers, the rabbi will need creative methods and new technologies to engage congregants. The pandemic has shown the effectiveness of new technologies in spreading Torah far and wide. Those who already have a connection with their rabbi can continue to do so over Zoom, even if they move out of the community. In fact, as a result of the pandemic, many, particularly in New York City, have left behind the urban life for more suburban areas. However, the personal connection to a rabbi that is so essential to the American rabbinate cannot be replicated over Zoom. With so many not attending shul and seeing and hearing the rabbi live on what once was a weekly basis, connections are an even greater challenge.

To some extent this emerging American rabbi will need to model himself after the Israeli model of the *rav ha-ir* or *rav ha-shekhunah*. In that traditional Israeli model, the rabbi is not limited by the walls of a particular building. I recall spending a Shabbat in Modi'in a decade ago when the current Ashkenazi Chief Rabbi, Rabbi David Lau, ran from synagogue to synagogue on Shabbat morning. From what I am told, he spoke in eleven different *minyanim* that Shabbat, inspiring and sharing words of Torah (sometimes the exact same words) in each location. This rabbinic model was characteristic of prewar European communities as well. I recently learned that when Rav Dovid Lifshitz *zt"l*, was Rabbi in Suvalk, he was responsible for all thirty seven shuls in that town. A Rav was the Rav of a town. There may have been a large shul that served as his base, but his orbit extended to the entire community.

The American model of a rabbi for every shul is historically novel. However, it serves a tremendous need. The ideal American congregational rabbi is far more than a teacher and preacher. He is a life guide and lifelong mentor for his flock. He offers pastoral counseling and is deeply involved in the life of his congregants. He is an essential part of their joys and their sadnesses. The ideal rabbi becomes one of the family. The Israeli *rav ha-ir* and the European communal rabbi was never expected to know the local congregants personally or be intimately familiar with their needs. He was a resource to whom one could ask halakhic questions when they arose and he represented the community in official functions. He rarely if ever offered pastoral counseling and certainly did not attend every *simhah*.

The question to ask is how can the essential personalized pastoral role of the American rabbi persist in a decentralized world of backyard *minyanim* and *shtiebels*? How can the successes of a century of American congregational rabbis be maintained if many of the changes wrought by the pandemic remain in the post-pandemic world?

## II.

And yet, at the same time that we are encountering so much decentralization we are witnessing greater centralization than at any time in recent memory. For a long time, Modern Orthodox communities operated in pods. Each community rabbi operated independently and decided for his community. Often the rabbi would seek guidance from his rabbinic mentor; more often he would not. But on the whole, each synagogue was an island unto itself. Lack of centralization dominated. The pandemic has brought forth a degree of centralization that has for too long been lacking or perhaps never before attained in Modern Orthodox communities.

Shortly before the pandemic, a large WhatsApp group for American rabbis was started. As if by fate, when the pandemic hit, this group proved immensely valuable for rabbis as they navigated the uncharted waters of COVID.<sup>1</sup> At first discussions focused on whether to close synagogues. Soon the conversation centered around how to arrange for the sale of *hametz* in a world of social distancing. Questions related to using technology on *Yom Tov* to avoid pandemic induced isolation at the *Pesah Seder* came next. Later the conversation segued into specific questions related to prayer in isolation and socially distant backyard *minyanim*. Questions of ensuring safe *mikveh* use and the proper way to conduct a wedding with the minimal number of people attending and maintaining appropriate safety methods followed. Rabbis discussed how to get the body of one who died to Israel and how to properly do the *taharah* process for the body. Rabbis not only shared *halakhot*, but more importantly they shared best practices. They listened to what was tried, what worked, and what failed. A spirit of collegiality emerged.

For rabbis this was exceedingly important. Rabbis are very often overworked (as well as underappreciated), and the pandemic only increased the already grueling burden. Rabbis had to care for their congregants and assuage their fears and anxieties while they themselves were fearful, anxious, and even ill. The pandemic made rabbis feel even more isolated and exhausted than they ordinarily feel. But at least with these WhatsApp groups they recognized that they were not alone in their loneliness and seemingly endless exhaustion. They realized that there were dozens, nay hundreds, of rabbis who felt the same as they did. The dark veil was slightly lifted.

But an even more significant benefit grew out of these WhatsApp groups: the long dormant position of *gadol* emerged from darkness. When I speak of *gadol* in this context I do not only mean *gedolei Torah*, whom we will discuss shortly. I refer also to the medical *gedolim* communities deferred to; physicians with expertise on infectious diseases became the address for many hundreds if not thousands of questions. Rabbis throughout the Modern Orthodox community carefully listened to Dr. Aaron Glatt's weekly sessions to receive medical guidance and direction. Dr. Glatt (himself a rabbi) was on the WhatsApp chat himself. Rabbis would specifically pose questions to him, sometimes prefaced with the abbreviation QFD, questions for doctor, and he would respond. The Modern Orthodox rabbinate coalesced around a central medical figure and largely adhered to the same medical guidelines, guidelines which without question saved lives.

Of equal, if not greater importance, the position of *posek* truly emerged in Modern Orthodox communities. Rabbis would pose questions to *poskim* and the WhatsApp chat labeled these as QFP—question for *poskim*. Of course, there have always been senior rabbinic figures to whom rabbis posed their own questions. But in the past, a *posek* would respond to a single rabbi with a private letter that sometimes was later published as part of a larger collection of responsa. Now however, multiple rabbis would pose a question to the *posek*, most often Rav Hershel Schachter, and he would respond to multiple rabbis at once. Further, it used to take considerable time for a *pesak* to be disseminated. With WhatsApp questions, the *posek* not only responded to many rabbis at once, but did so rapidly and in public. Everyone in the WhatsApp group could see the question and read the answer. Every rabbi could question the approach the *posek* took and ask for clarification. The conversation that ensued was animated and fruitful.

For quite some time, perhaps forever, the Modern Orthodox community in the diaspora has rarely if ever had *poskim* who drafted responsa, or *teshuvot*. Certainly the leading lights of the generations issued halakhic rulings. But by and large, Rabbi Joseph B. Soloveitchik did not write *teshuvot*, nor did Rav Aharon Lichtenstein or any of Rav Soloveitchik's successors. Their rulings were issued orally to the individual questioner, and consequently, there was often some uncertainty about what exactly Rav Soloveitchik said. What precisely was the question? Were there extenuating circumstances? Did the one asking properly understand the answer given? Every nuance matters when it comes to *pesak*. Even well-publicized opinions were questioned and rightly so. Without a written record, uncertainty abounds. Despite the novelty of the medium, WhatsApp *teshuvot* are written *teshuvot*, and thus many of these concerns were removed.

A consequence of COVID is that *teshuvah* writing emerged in the Modern Orthodox world. The *teshuvot* of Rav HershelSchachter were spread on these WhatsApp and publicized even further on YUTorah. The widespread popularity of Rav Yosef Zvi Rimon, who is in Israel, led to separate WhatsApp groups where diaspora rabbis posed him their questions, COVID related or otherwise. Often these rabbis were treated to a full *teshuvah* in response to their query. Together with the *teshuvot* penned by Rav Asher Weiss, which have subsequently been published as a

full collection of responsa, these *teshuvot* will be a primary source to look at to discover what was on the rabbinic mind and each stage of the pandemic. More importantly, as a result of COVID, American rabbis came to appreciate the role of a *posek* to whom they could pose their pressing questions and become a part of the traditional *teshuvah* writing process.

Even now, when the darkest days of COVID have thankfully passed and there are fewer and fewer COVID related questions, the rabbinic WhatsApp groups continue to flourish. Questions about particular kosher certifications, questions of locating contact information for certain individuals, or detailed but not overly complex halakhic questions are posed by rabbis to rabbis. Rabbis are engaging with each other, looking for sources, and asking questions of one another. The collegial spirit that developed during the grimmest hours of COVID has continued and hopefully will remain even once we fully emerge into the sunlight.

There is a paradox here. At that same time that COVID ripped communities asunder and created isolation and increased communal decentralization, a new spirit of collegiality and centralized guidance has come forth. Community rabbis have connected more with each other. Communities are now more than ever looking towards *poskim* for guidance on larger issues. Thus, even with the new challenges to the rabbinate and community structures that decentralization will pose, the inter-rabbinic fellowship is a ray of light that shines out as we approach the end of the dark tunnel of COVID.

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<sup>1</sup> Much credit for the establishment of these WhatsApp groups goes to Rabbi Reuven Taragin of Yeshivat Hakotel.