
1

*Daas Torah: A Modern
Conception of Rabbinic
Authority*

Lawrence Kaplan

The concept of *Daas Torah* is, at one and the same time, both precise and delimited, and broad and elusive. It is precise and delimited for, as historians have argued, *Daas Torah* appears to be a specific modern concept of rabbinic authority that has arisen and developed in a clear and definite historical context. It is broad and elusive, first of all, because of the wide range of varying meanings that—incorrectly, I believe—have been attributed to it, but also because of certain inherent ambiguities in the concept. Most important, the proponents of *Daas Torah* have argued that in fact it is

I benefited greatly from the comments and criticisms of all the participants in the Orthodox Forum. In particular, I would like to thank the following for calling my attention to important source materials: Rabbis Yosef Blau, Norman Lamm, Yonasan Saks, and J. J. Schacter, and Professors David Berger and Moshe Sokol. I would also like to thank Rabbi Joshua Shmidman of Congregation Tifereth Beth David Jerusalem of Montreal for his help.

not a new concept at all, but that it is identical with the fundamental notion of rabbinic authority as that notion is to be found in the classical sources of rabbinic Judaism. One proponent has gone so far as to argue that if the concept of *Daas Torah* is not "mentioned *per se* in the Talmud," it is because it forms the entire basis of the Talmud's authority, because it is "implicit in every line of every piece of every *masechta* of the Talmud."¹ One might think that this

¹See Avi Shafran, "The Enigma of Moses Mendelssohn," *The Jewish Observer* 19:9 (December 1986): 17. Ironically, Shafran's own article, despite its valiant advocacy of the concept of *Daas Torah*, was itself sharply criticized in the issue immediately following of *The Jewish Observer* 19:10 (January 1987): 13, in a statement by Rabbi Yaakov Perlow, the Novominsker Rebbe, written "in response to an invitation by members of the *Moetzes Gedolei ha-Torah*," for treating Mendelssohn "too kindly" and for not condemning him from "a perspective that rests on the truths of Torah [as] keenly sensed by the sages of his [Mendelssohn's] and later days." Thus Rabbi Shafran, the advocate of *Daas Torah*, is weighed in the balance and found wanting by the Novominsker Rebbe speaking in the name of the *Moetzes Gedolei ha-Torah*, by, in other words, an authoritative expression of *Daas Torah* itself! In this connection, it might also be worth noting that Rabbi Perlow's assumption that the negative attitude toward Mendelssohn taken by the Hatam Sofer is representative of the general view of *Gedolei Yisrael* toward Mendelssohn is, in truth, despite the air of authority with which it is set forth, completely lacking in any foundation and a distortion of undeniable historical facts. See Steven Lowenstein, "The Readership of Mendelssohn's Bible Translation," *HUCA* 53 (1982): 179-213; Meir Hildesheimer, "Moses Mendelssohn in Nineteenth-Century Rabbinic Literature," *PAAJR* 55 (1988): 79-133; and the appendix to the responsum of the Maharam Schick in *Likkutei Teshuvot: Hatam Sofer*, ed. E. Stern (London: G. J. George and Co. Ltd., 1965), no. 82, 75, trans. Shnayer Z. Leiman in "R. Moses Schick: The Hatam Sofer's Attitude Toward Mendelssohn's *Biur*," *Tradition* 24:3 (Spring 1989): 83-86. I should add that there is a reliable oral tradition to the effect that the "well-known" anonymous gaon who according to the Maharam Schick studied the *Biur*, in particular the *Biur* to Leviticus, and who was strongly criticized by the Hatam Sofer for so doing, was none other than

is a classic example of converting a weakness into a strength,² but it serves to show the strong nature of the claim being made.

In this chapter, I have set myself three interrelated tasks. First, I will seek to determine the exact nature of the view of rabbinic authority being propounded in the concept of *Daas Torah* and examine the historical context or contexts in which this concept developed, as well as the functions it has served in those contexts. Second, I will try to locate the roots of this concept in traditional notions of rabbinic authority and see to what extent the concept of *Daas Torah* resembles these traditional notions and to what extent it differs from them. Finally, I will look at the fortunes of *Daas Torah* on the contemporary scene and engage in a few, necessarily tentative, speculations as to its prospects for the future. An epilogue consisting of a troubling but, I trust, instructive historical narrative will serve as a conclusion.

THE IDEOLOGY OF DAAS TORAH: A HISTORICAL OVERVIEW

Several years ago I wrote an article in which I made a few brief critical remarks about the concept of *Daas Torah*.³ As might have

that halakhic giant, pillar of rabbinic Judaism, and the Hatam Sofer's own father-in-law, R. Akiva Eger! (On R. Akiva Eger's attitude toward the *Bi'ur*, see Lowenstein, 188-89; and Hildesheimer, 97.) Or, perhaps R. Akiva Eger, R. Moses Schick, R. Samson Raphael Hirsch, R. Azriel Hildesheimer, R. Mordecai Baneth, R. Yosef Zechariah Stern, and the rest, all of whom, although at times sharply critical of Mendelssohn, saw some value - indeed, at times, much value - in the person and his writings also ought to stand condemned by the authoritative pronouncement of *Daas Torah* for the "sin" of treating Mendelssohn "too kindly"?!²

²Certainly the doctrines of God's existence, the election of Israel and the revelation of the Torah are "implicit in every line of every piece of every *masechta* of the Talmud," and yet, if memory has not failed me, they are, every now and then, "mentioned *per se* in the Talmud."

³"Rabbi Isaac Hutner's 'Daat Torah Perspective' on the Holocaust: A Critical Analysis," *Tradition* 18:3 (Fall 1980): 235-48.

been expected, a number of people, three to be exact, wrote to take issue with me.⁴ As, however, might not have been expected, these three correspondents, interestingly enough, defined the concept of *Daas Torah* in three different ways. One correspondent identified *Daas Torah* with halakhic *pesak*, another with the *talmid-rebbe* relationship, while the third—coming closest to the mark—identified it with the voluntary acceptance by the heterogeneous traditional community of the consensus of the *Moetzes Gedolei ha-Torah*, the Council of Torah Sages of Agudas Yisrael, on questions that involve the Jewish community as a whole.⁵ These widely varying definitions may point to certain ambiguities that are inherent in the concept of *Daas Torah*. Without denying these ambiguities, I would argue that the concept of *Daas Torah* should not be identified with any of the three suggested definitions—especially not with either of the first two; on the other hand, it does bear certain resemblances to all of them, especially with the third.

While the term *Daas Torah* does appear in earlier rabbinic literature, it only begins to be used as a designation for a specific notion of rabbinic authority sometime in the late nineteenth or early twentieth century.⁶ Gershon Bacon, who has devoted several

⁴See "Letters to the Editors," *Tradition* 21:2 (Summer 1983): 180–87, for two critical responses to my article by Rabbi Leonard Isbee (180) and Rabbi Aaron Reichel (181–82) and my reply (183–87). A third critical response by Rabbi Meir Belsky was sent to *Tradition* as a private communication.

⁵The views of Rabbis Isbee, Belsky, and Reichel, respectively.

⁶See my article, cited above in n. 3, 248 n. 5. Rabbi Hillel Goldberg has recently argued that Rav Yisrael Salanter in a letter written in 1883 (R. Yisrael Salanter, *Iggerot u-Mikhtavim*, ed. S. Wilman [Brooklyn, 1970], 70) already used the term *Daas Torah* in its modern sense. See Hillel Goldberg, "Israel Salanter and *Orhot Zaddikim*: Restructuring Musar Literature," *Tradition* 23:4 (Summer 1988): 38 n. 18. However, a careful examination of the relevant passage in the letter referred to by Goldberg indicates that there is much *less* to the use of the term there than meets the eye. In the

letter, Rav Salanter, in the course of discussing his position on a particular communal matter, writes:

My son-in-law wrote me . . . that his view inclines [in a direction different from mine] because it is a matter of necessity [*daato notah mipnei ha-hekhré'ah*], but that he will nullify his view because of my view which is *Daas Torah*. This [formulation of his] suggests that, in truth, he is not nullifying his view, and he is a person of judgement. Perhaps, then, his honor will be so kind as to travel to Vilna to meet with Rabbi . . . and discuss the matter calmly with my son-in-law; and the counsel of the Lord will be established.

What emerges from a close reading of this passage is the following. (1) It was not Rav Salanter who used the phrase *Daas Torah* here. Rav Salanter was just quoting his son-in-law's formulation; (2) Rav Salanter's son-in-law used the phrase in order to play upon the talmudic antithesis between *daat notah* and *daat torah* (*Hullin* 90b); (3) in stating that he was nullifying his view in favor of his father-in-law's *Daas Torah* view, Rav Salanter's son-in-law was simply engaging in an act of personal deference to the stature and authority of his father-in-law and was not really abandoning his own view; (4) Rav Salanter was very well aware of the fact that his son-in-law's statement was just an act of personal deference and that his son-in-law was still maintaining his own view; (5) precisely because of the above, Rav Salanter felt that his son-in-law's contrary view should not be simply dismissed or ignored, and for that reason he suggested that the matter be discussed further with him.

In light of our analysis, it is difficult to agree with Goldberg's contention that *Daas Torah* in its modern sense is being invoked in this letter. The disciples of Rav Salanter did develop a notion of *Daas Torah* in its modern sense, but that is another story. See n. 81, below.

Even more recently, Mendel Piekartz, in his exceptionally important and thorough work, *Hasidut Polin: Megamot Raayoniyyot bein Shetei ha-Milhamot u-bi-Gezerot 1940–1945* (Jerusalem: Mossad Bialik, 1990), 81–96, has found extensive evidence for the use of the term *Daas Torah* in its modern sense in the writings of hasidic rebbes beginning in the late nineteenth century. On the other hand, we cannot agree with Piekartz's

studies to this subject,⁷ has argued that we must view the emergence and formation of the concept of *Daas Torah* within the context of the rise of Agudas Yisrael as a political party devoted to defending and espousing the interests of Orthodox Jewry in the challenging and often hostile modern environment in which traditional Jewry found itself, both the modern environment in general and, more specifically, the modern Jewish environment.

The process whereby the traditional Jewish community, in response to the challenges of modernization, became a self-consciously Orthodox community has been the subject of much recent study.⁸ One facet of this process was the Orthodox community's adoption of certain modern techniques, strategies, and modes of operation and organization, the better to combat modernity and defend traditional Judaism. One of these modern methods of organization was the political party.

The beginning of the twentieth century saw the rise of a secular Jewish leadership and secular ideological Jewish movements – most prominent among them the Bund and Zionism – that organized themselves as political parties and fought for their interests and for positions of communal power under party banners. This political challenge posed by secular Jewry to traditional Jewry gave rise to the need for traditional Jewry to respond in like fashion. It was in this

claim (389 n. 23) that the term in its modern sense is already to be found in the writings of the Maharal of Prague. For the significance of Piekartz's work for this discussion, see below, n. 84.

⁷See Gershon Bacon, *Agudath Israel in Poland, 1916–1939: An Orthodox Jewish Response to the Challenge of Modernity* (Ph.D. dissertation, Columbia University, 1979), in particular chap. 2 (48–76); and his essay "Daat Torah ve-Hevlei Mashiah," *Tarbiz* 53:3 (1983): 497–508. A revised version of Bacon's thesis, *Agudat Yisrael in Poland, 1916–1939: The Politics of Tradition*, has been announced for publication.

⁸See the many works of Jacob Katz, Eli Schweid, Moshe Samet, Michael Silber, Emmanuel Etkes, Robert Liberles, David Ellenson, and Mordecai Breuer, for more on this subject.

context that Agudas Yisrael grew and developed and, particularly in Poland during the interwar years, took on the form of a political party. Yet, this mode of political organization did not come easily to traditional Jewry. Obviously it was (and remains?) paradoxical and disturbing for traditional Jewry to adopt modern political guises, even if such guises are necessary in order to defend traditional interests. And can traditional Jewry simply see itself as a party like all parties?! It was in response to this politicization of traditional Jewry and the dilemmas it posed – so Bacon claims⁹ – that the concept of *Daas Torah* arose.

The Agudah, in its own self-perception, was not one party among many parties; indeed, it was not really a political party, in the normal sense, at all. For at its head stood the great rabbis of the era, as embodied in the institution of *Moetzes Gedolei ha-Torah*, The Council of Torah Sages. The views of these Torah giants on all issues, whether on more "narrowly" conceived religious and halakhic issues or on "broader" communal and political issues, were authoritative and binding for the Agudah and its followers. Their views were binding precisely because these giants, as a result of their immersion in Torah, were, in all their pronouncements, the authentic spokesmen for, the quintessential embodiment of, the Jewish tradition. Their views, in a word, were *Daas Torah*, the authentic and authoritative Torah viewpoint on the issues in question. Thus, the Agudah itself, under the leadership of these *Gedolim*, was not just another political party, but the authoritative spokesman for and representative of traditional Judaism and the traditional Jewish community. Moreover, the Agudah could counterpose its authentic rabbinic leadership to what it saw as the inauthentic, indeed subversive, secular leadership of the other Jewish parties.

Perhaps the clearest and most forceful presentation of the ideology of *Daas Torah* is to be found in the following statement, attributed to the Hafetz Hayyim.

⁹But see below, n. 84.

The person whose view [*daato*] is the view of Torah [*Daas Torah*] can solve all worldly problems, both specific and general. However, there is one condition attached. The *Daas Torah* must be pure, without any interest or bias. However, if there is a person who possesses *Daas Torah* but it is intermingled even slightly with other views from the marketplace or from the newspapers, then this *Daas Torah* is turbid, intermingled with dregs. Such a person cannot penetrate into the heart of the matter.¹⁰

Thus, paradoxically, or maybe not so paradoxically, it is the rabbis who are completely immersed in the world of Torah and seemingly removed from the outside world who, in truth, possess a unique penetrating insight into the challenges and needs of the situation; and it is only they who, consequently, can draw upon "the spirit of tradition" in order to formulate the policies needed to meet these challenges and needs.

Another very forceful expression of this ideology, deriving from the interwar period, is to be found in an address – not cited by Bacon – of Rav Joseph B. Soloveitchik, in a eulogy delivered in 1940 upon the passing of Rav Hayyim Ozer Grodzinski.¹¹ In his eulogy, Rav Soloveitchik – although he does not use the term *Daas Torah* – speaks of the need to unite in one person, as in the high priest of old, the *tzitz*, the symbol of halakhic scholarship and *pesak*, and the *hoshen*, the symbol of policy decisions on critical communal issues. In one striking passage Rav Soloveitchik states:

The very same priest, whose mind was suffused with the holiness of the Torah of R. Akiva and R. Eliezer, of Abbaye and

¹⁰*Hafetz Hayyim al ha-Torah*, ed. Rabbi S. Greineman (Bnei Brak, n.d.), 30.

¹¹A Eulogy for R. Hayyim Ozer Grodzinski, *Ha-Parades* 14:7 (September 1940): 5–9; reprinted in *Divrei Hagut ve-Haarakhah* (Jerusalem: World Zionist Organization: Dept. of Torah Education and Culture in the Diaspora, 1981), 187–94.

Raba, of the Rambam and Rabad, of the Beth Yosef and the Rema, could also discern with the holy spirit [*roeh be-ruah ha-kodesh*] the solution to all current political questions, to all worldly matters, to all ongoing current demands.¹²

It is no coincidence that this eulogy was delivered at the second annual conference of the Agudas Yisrael of the United States, at a time, moreover, when Rav Soloveitchik was a vice president of the Agudah. Nor is it a coincidence that in the eulogy, Rav Soloveitchik contrasted this type of all-embracing leadership, as embodied, for example, by Rav Hayyim Ozer, with the secular leadership of nontraditional movements wishing to reserve communal leadership for themselves and reduce the rabbis to religious functionaries who rule only on purely ritual or technical, halakhic matters.¹³ We have here, then, an elegant expression of the Agudah ideology of *Daas Torah*.

Bacon's analysis, which we have largely followed up to this point,¹⁴ is correct as far as it goes, but it does not go far enough. Indeed, Bacon perhaps places too much emphasis on the rise of Agudas Yisrael as a political party, finding in this the primary context for understanding the development of *Daas Torah* and slighting other factors that nurtured this development.

It needs to be noted that *Daas Torah* came into its own – at least in nonhasidic circles – only after the Second World War, and not during the interwar period. As evidence for this contention, we may cite the following two observations. First, there are not really many clearly articulated and publicly presented expressions of the ideology of *Daas Torah*, again in nonhasidic circles, from the

¹²*Divrei Hagut ve-Haarakhah*, 192.

¹³*Ibid.*, 193–94. For the possible historical background to this eulogy, see Aharon Rakeffet-Rothkoff, "Hanhagat Am Yisrael be-Mishnato shel ha-Rav Yosef Soloveitchik," in *Iturim*, ed. Moshe Ishon (Jerusalem: World Zionist Organization: Dept. of Torah Education and Culture in the Diaspora, 1986), 298–313.

¹⁴But see below, n. 84.

the *Moetzes Gedolei ha-Torah*, the quintessential embodiment of the ideology of *Daas Torah*, was never really an active and functioning organization during the interwar period, but rather was "a largely theoretical institution."¹⁶ This second observation may be further corroborated by the recently published autobiography of Dr. Isaac Breuer, *Darki (Mein Weg)*, in which Breuer describes the *Moetzes*

Rav Elhanan, in his more publicizing and popular writings, was perhaps the most articulate spokesman of the Agudah ideology of that period. He presents time and again with force and clarity the basic positions of the Agudah: for example, its critique of both secular Jewish nationalism as well as the religious nationalism of Mizrahi, and its perception of the manifold defections from traditional Judaism and of the growing persecutions of the Jewish people as evidence of the "birth pangs of the Messiah." It is also true that he refers to these views as being "*Daas Torah* gathered from *Sofrim* and *Sefarim*," "as ideas . . . taken from the Torah" (*Kovetz Maamarim*, 153) and uses the term *Daas Torah* rather freely in his essays (*Kovetz Maamarim*, 98, 104, 128, 140, 155). It is all the more striking, then, that there is no ideology of *Daas Torah* to be found in any of Rav Elhanan's essays. Particularly noteworthy is the absence in any of the essays of a role accorded to the *gedolim* in formulating *Daas Torah*. It is also of interest that Rav Elhanan uses the terms *Daas Torah*, *Daas ha-Torah*, *Atzas ha-Torah*, and *Daatah shel ha-Torah* interchangeably.

The term *Daas Torah* was also used freely in many of the placards of the *haredi* community of Jerusalem in the 1920s and 1930s condemning Zionism and all "deviations" from the tradition (e.g., speaking Hebrew). See *Torat Rebbe Amram*, vol. 1 (Jerusalem, 1977), pt. 2, docs. 3, 4, 24, 48, and 60. Note that in doc. 60, the Agudas Yisrael itself is accused of acting in violation of *Daas Torah*. Cf., as well, doc. 52 for the conception of *Daas Torah*—though the term itself is not used—set forth by *Hevrat ha-Hayyim* (named after Rav Yosef Hayyim Sonnenfeld), the society which was the forerunner of the *Neturei Karta*. Indeed, even the more "moderate" elements of the Jerusalem Orthodox community would also, at times, brandish the term *Daas Torah* in their placards. See Menahem Friedman, *Hivrah ve-Dat* (Jerusalem: Yad Yitzhak Ben-Zvi, 1978), 329.

¹⁶Bacon, *Agudath Israel in Poland*, 106–15, 462.

interwar period. The statement of the Hafetz Hayyim, cited earlier, which is the clearest and most forceful of all such statements, is not to be found in any of his published works. Rather, it was an oral comment noted by his disciple Rav Shmuel Greineman (the brother-in-law of the Hazon Ish) and incorporated in the latter's book *The Hafetz Hayyim on the Torah*, published in 1943, after the Hafetz Hayyim's death. As for the statement of Rav Soloveitchik cited earlier, it cannot be considered a full-blown expression of the ideology of *Daas Torah*. For Rav Soloveitchik was referring specifically to the communal authority of someone like Rav Hayyim Ozer, who derived much of that authority from his position as communal Rav of Vilna and not simply from his personal charisma and learning, as great as they might have been. Or, to put it another way, it was Rav Hayyim Ozer's personal charisma and learning, *filtered through and mediated* by his position of communal Rav, that was the source of his authority.¹⁵ Second, as Bacon himself shows,

¹⁵A more muted conception of *Daas Torah* may be found in Rav Aaron Lewin, *Ha-Derash ve-ha-lyun*, vol. 2, *Parshat Yitro* (Bilgoray, 1931), 198, cited in Piekartz, *Hasidut Polin*, 80 n. 22. (Piekartz mistakenly refers to *Parshat Bo*.) A clear and succinct expression of the doctrine, if lacking the force of the statement of the *Hafetz Hayyim*, is set forth in an essay by Alexander Zusya Friedman, perhaps the leading ideologist of Agudas Yisrael in Poland. See "Agudat Yisrael," in *Darkenu*, Jubilee Volume (Tishrei 1935), 57; cited in Piekartz, *Hasidut Polin*, 88 n. 21. A particularly critical reference to and use of the notion of *Daas Torah*, unaccompanied, however, by a definition or exposition of the concept, can be found in the famous letter Rav Hayyim Ozer Grodzinski wrote to R. Meir Hildesheimer in 1934 opposing the latter's attempt to transplant the Hildesheimer Rabbinical Seminary from Berlin to the land of Israel. See *Ahitzer: Collected Letters*, vol. 2 (Bnei Brak, 1970), 443–44 [= *Kovetz Iggerot Hazon Ish* 2:171–73]. (For further discussion of this letter, see n. 33, below.) It is worth noting that all the statements we have cited come from the 1930s when the storm clouds were gathering.

One figure from the interwar period who is often cited in connection with the concept of *Daas Torah* is Rav Elhanan Wasserman. It is true that

Gedolei ha-Torah as a council "which never enjoyed any real existence."¹⁷

It was only after the Second World War that there emerged, even in nonhasidic circles, a much more explicit, developed, and ongoing presentation of the ideology of *Daas Torah*, as set forth in statements by Rav Eliyahu Dessler, the *Hazon Ish* and his disciples, Rav Yaakov Kanevsky, and, may he be distinguished for a long life, Rav Eliezer Schach, and many others. Moreover, it was only after the war that the *Moetzes Gedolei ha-Torah* became a functioning, active, and influential organization. Finally, and perhaps most important, it was only after the war that rabbinic leaders, speaking in the name of and invoking the authority of *Daas Torah*, took the initiative on such crucial communal issues as *sherut leumi*, membership in "mixed" synagogue organizations, for example, the Synagogue Council of America, and, more recently, the return of the *shetahim*. This leads one to believe that a key factor, if not the key factor, in the rise of the ideology of *Daas Torah* was, as Rabbi Shubert Spero has suggested,¹⁸ the breakdown of traditional Jewish communal structures, the concomitant weakening of the power of communal rabbis and lay religious leaders, and the emergence of

¹⁷Isaac Breuer, *Darki*, trans. from the German manuscript by M. Schwartz (Jerusalem: Mossad Yitzhak Breuer, 1988), 170. The continuation of this passage is particularly striking for its exceptionally biting tone. It is impossible to imagine any Agudah ideologist today writing about the *Moetzes Gedolei ha-Torah* in a manner even remotely approaching the sharpness of Breuer's critical remarks.

It is worth noting that the recent Agudah "house" history, *The Struggle and the Splendor: A Pictorial Overview of Agudath Israel of America* (New York: Agudath Israel of America, 1982), 21–25, not surprisingly, portrays the *Moetzes Gedolei ha-Torah* as the vital and active nerve center of the Agudah from the very beginning of the movement. How wonderful to be able to bask in the glow of current pieties, unconstrained by such a mundane consideration as concern for historical truth!

¹⁸Shubert Spero, "Daas Torah" in *Diurei Ha-Rav* (Cleveland, OH: Young Israel of Cleveland, 1976), 18–19.

the *rashei yeshivah*, with their Torah scholarship and personal charisma, to center stage. This process has, of course, been going on since the nineteenth century,¹⁹ but it reached its climax only with the Second World War and the destruction of the great traditional Jewish communities of Eastern Europe. Thus, the climax of this process, of this change of leadership, coincides with and would seem to be partially, if not largely, responsible for the emergence of a full-blown concept of *Daas Torah*.

A striking symbol of this change of leadership, particularly relevant to the issue of *Daas Torah*, is the passing of the mantle of leadership of the traditional Orthodox Jewish community from Rav Hayyim Ozer before the war to the *Hazon Ish* after the war. As we have already noted, Rav Hayyim Ozer was, of course, a great tal-mudic scholar, but first and foremost he was the communal rav of the great city of Vilna. His standing thus reflected the traditional role of communal rav as leader of the Jewish community. The *Hazon Ish*, who was Rav Hayyim Ozer's confidante in Vilna, left Vilna and, by implication, the Jewish world of Eastern Europe in the mid 1930s for the land of Israel. Upon his arrival there, the *Hazon Ish* did not settle in Jerusalem but in the new community of Bnei Brak. Thus, the *Hazon Ish* functioned as a halakhic authority outside of already established traditional Jewish communal structures. Moreover, the *Hazon Ish* never (with the exception of a very brief stint as a communal rav during the First World War necessitated by the emergency situation) held an official position, either as rav or even as *rosh yeshivah*. His halakhic authority and his *Daas Torah* derived purely from his greatness as a Torah scholar and his personal charisma.

¹⁹See, for example, Emmanuel Etkes, "Bein Lamdanut le-Rabbanut be-Yahadut Lita shel ha-Me'ah ha-Yod-Tet," *Tziyyon* 53 (1988): 385–403; Mordecai Breuer, "Tradition and Change in European Yeshivot: Seventeenth to Nineteenth Centuries," paper delivered at a conference on "Tradition and Crisis Revisited: Jewish Society and Thought on the Threshold of Modernity," Center for Jewish Studies of Harvard University, October 1988; and Piekarz, *Hasiđut Polin*, 17–23.

We are suggesting, then, that the ideology of *Daas Torah*, in large part, is intended to provide a basis for a new type of rabbinic authority, a type of authority that can serve as a substitute for the traditional mechanisms whereby both the lay and rabbinic leadership of functioning Jewish communities dealt with new challenges, whether through *takkanot* (be they *takkanot ha-kahal* or rabbinically instituted *takkanot*), *gezerot*, the ban, and the like.

In this respect, it is again instructive to focus on the *Hazon Ish*, this time contrasting him not with his predecessor, Rav Hayyim Ozer, but with a great luminary of an earlier generation to whom he has often been compared, and with much justice, the Gaon of Vilna. Both the *Hazon Ish* and the Gaon of Vilna were private individuals. Neither served as rav or rosh yeshivah. Each derived his immense authority from his unparalleled Torah learning and unique charisma. But in the time of the Gaon of Vilna, the traditional communal structures were still in place. Therefore, when the challenge of Hasidism arose, the Gaon, working in tandem with the lay leaders, lent his immense prestige to the communal ban issued against the *hasidim* by those lay leaders representing the community of Vilna.²⁰ By contrast, when the *Hazon Ish* spoke out on the issue of *sherut leumi*, he expressed his opposition purely on his own authority, presenting his view as *Daas Torah*.²¹ He was the community.

This reliance on the ideology of *Daas Torah* as a basis for promulgating an *issur*, an *issur* that in previous generations would

²⁰See S. Dubnow, *Toldot ha-Hasidut* (Tel Aviv: Dvir, 1967), 114-17. One ban was signed by the Gaon himself, by the Rav of Vilna, Rav Samuel, and by the *dayyanim*; another ban was signed by Rav Samuel, the *dayyanim*, and the *parnassim*. An examination of the various bans and proclamations against the *hasidim* will easily reveal the preeminent role played in the entire episode by the lay leaders of the various communities.

²¹*Hazon Ish, Kovetz Iggerot*, vol. 1, letters 111-113 (122-26); cf. the public announcement of the *Daas Torah* of the *Hazon Ish* on *sherut leumi* in Shimon Finkelman, *The Chazon Ish* (New York: Mesorah Publications Ltd., 1989), 252.

have been set forth as a communal ban, may be seen in the famous *issur* against Orthodox participation in the Synagogue Council of America. Once again it is not coincidental that the *issur* was issued by eleven *rashei yeshivah*, nary a communal rav among them.²² The one communal rav who was asked to sign the *issur*, R. Eliezer Silver, refused. While agreeing in principle with the *issur*, he felt that issuing the *issur* at that time and in that form was partially motivated by anti-Yeshiva University considerations and would only exacerbate a difficult situation.²³ The difference in sensibilities here is quite telling.²⁴

Three statements from the postwar era should give us a good picture of the contemporary ideology of *Daas Torah*.

The first statement comes from the pen of the *Hazon Ish*. In a famous letter to a leader of Po'alei Agudat Yisrael on the issue of *sherut leumi*, the *Hazon Ish* sets forth the ideology of *Daas Torah* in a passage reminiscent of Rav Soloveitchik's eulogy for Rav Hayyim Ozer, but phrased in much sharper terms.

The viewpoint that divides the Torah in two: questions of *issur ve-heter* on the one hand and guidance in everyday life on

²²Rav Aharon Kotler, perhaps the major signatory of the *issur*, referred to it in a private letter as an "issur of the Ramim." See *Mishnat Rav Aharon*, vol. 2 (Jerusalem: Makhon Yerushalayim, 1985), 165.

²³See Aharon Rakeffet-Rothkoff, *The Silver Era* (New York: Yeshiva University, 1981), 292. In a recent interview, Rabbi Emanuel Rackman recalls Rav Silver telling him to pay no attention to the *issur*. See *Jewish Review* (September-October 1990), 12.

²⁴In this connection, a reliable informant related to me that he was present at a meeting of the *Agudas ha-Rabbanim* where Rav Silver publicly rebuked Rav Aharon Kotler for what he considered unwarranted interference in an internal communal matter. It should be mentioned parenthetically that the change in the character of the *Agudas ha-Rabbanim* in the 1950s from an organization dominated by communal rabbis to one dominated by *rashei yeshivah* is both a part and a symbol of the entire story being told here.

the other; and that holds that for *issur ve-heter* one should subjugate oneself to the sages of one's time, while leaving other matters to one's own free choice—this is the viewpoint held by the heretics of old in Germany who drove their brethren to assimilate with the other nations. . . . For one to distinguish between instruction regarding *issur ve-heter* and matters of legislation constitutes denigration of *talmidei hakhamim* and places one in the category of those who have no portion in the world to come.²⁵

The second statement may be found in Rav Eliyahu Dessler's famous and oft-cited response to a correspondent who raised the argument that many Jews might have been spared the ravages of the Holocaust had the rabbinic authorities in Eastern Europe encouraged the masses of the Jews to emigrate to the land of Israel. Rav Dessler writes:

Whoever was present at their meetings [the Hafetz Hayyim, Rav Hayyim Brisker, and Rav Hayyim Ozer] . . . could have no doubt that he could see the *Shekhinah* resting on the work of their hands and that the holy spirit was present in their assemblies. . . . Our rabbis have told us to listen to the words of the Sages, even if they tell us that right is left, and not to say, heaven forbid, that they certainly erred because little I can see their error with my own eyes. Rather, my seeing is null and void compared with the clarity of intellect and the divine aid they receive. . . . This is the Torah view [*Daas Torah*] concerning faith in the Sages [*Emumat Hakhamim*]. The ab-

²⁵*Haizon Ish, Hitorerut* (Bnei Brak, 1988), 41–42. An English translation can be found in Finkelman, *Chazon Ish*, 249. It is worth noting that the *Haizon Ish* does not use the phrase *Daas Torah* in this letter. The only place in his writings, to my knowledge, where he does use the phrase is *Kovetz Iggerot*, vol. 1, letter 108 (121). Rabbi Shalom Carmy informs me that his search for the phrase *Daas Torah* in the writings of the *Haizon Ish* has been similarly unsuccessful, seeming to confirm my impression.

sence of self-negation toward our rabbis is the root of all sin and the beginning of all destruction, while all merits are as naught compared with the root of all—faith in the Sages.²⁶

The third statement—perhaps the clearest exposition of *Daas Torah*—comes from the pen of one of the most articulate spokesmen for traditional Orthodoxy in the United States, Rabbi Bernard Weinberger. Rabbi Weinberger sets down the premise that

Gedolei Yisrael possess a special endowment or capacity to penetrate objective reality, recognize the facts as they really are and apply the pertinent halakhic principles. This endowment is a form of *ruah ha-kodesh*, as it were, bordering, if only remotely, on the periphery of prophecy.

From this premise Rabbi Weinberger draws the following conclusion:

Gedolei Yisrael inherently ought to be the final and sole arbiters of all aspects of Jewish communal policy and questions of *hashkafah* and . . . even knowledgeable rabbis who may differ with the *gedolim* on a particular issue must submit to the superior wisdom of the *gedolim* and demonstrate *Emumat Hakhamim*.²⁷

These statements appear clear enough.²⁸ Yet, there is still an ambiguity in the concept of *Daas Torah*; and resolving this ambi-

²⁶Eliyahu Dessler, *Mikhtav Me-Eliyahu* 1:75–77; cf., as well, his discussion on p. 59.

²⁷Bernard Weinberger, "The Role of the Gedolim," *Jewish Observer* 1:2 (October 1963): 11.

²⁸Many other statements on *Daas Torah* can be found in the writings of Rav Kanevsky, Rav Shach, and the various English, Hebrew, and Yiddish journals of Agudas Yisrael. In this connection, see the lucid and thoughtful, if somewhat journalistic, exposition and defense of *Daas Torah* by the exceptionally able and articulate leader of the Agudah, Rabbi Moshe

guity, or at least bringing it to light, may help to clarify the notion of *Daas Torah* as well as to suggest other functions it serves.

One may ask to what extent *Daas Torah* is analogous to, or is, a special type of halakhic *pesak*. Rav Soloveitchik's presentation and that of others suggest that while *Daas Torah* is dependent on great halakhic expertise, an actual decision involving *Daas Torah* on a communal question is more of an intuitive matter, nurtured to be sure by the halakhic intellect, but differing fundamentally from halakhic *pesak*. This is corroborated by a statement of the Hazon Ish who, when challenged to cite the paragraph in the *Shulhan Arukh* that prohibits *sherut leumi*, replied: "It is to be found in the fifth section of the *Shulhan Arukh*, the one which is not written and is the province of only true *talmidei hakhamim*."²⁹

On the other hand, the Hazon Ish, on another occasion, in setting forth how he arrived at a *Daas Torah* decision, stated: "When I am asked for a decision about such matters I do not simply shake them from my sleeve. Rather, I study all the relevant sources: *Gemara*, Rashi, *Tosafos*, *Rishonim* and *Aharonim*, and clarify the matter. Only after studying the entire *sigya*, when the matter is

Sheret, "Gedolei Yisrael ve-Politikah," in *Bi-Shtei Einayim* (Brooklyn: Mesorah, 1988), 244-49. (This article originally appeared in Yiddish in the Agudah journal, *Dos Yiddishe Vort*.) A very striking collection of statements by leading American *rishsei yeshiva* espousing the ideology of *Daas Torah* in a rather extreme form may be found in the *Jewish Observer* (February 1987), 43-45. See, in particular, Rabbi Elya Svei's article in that issue "Torah: A Source for Guidance in Every Phase of Jewish Activity," 7-9. It is especially worth noting how many of these statements blur *Daas Torah* with *kavod ha-Torah* and *kevod hakhamim*. Thus, refusing to accept the *Daas Torah* pronouncement of a particular *gadol* is equated with *bizzayon ha-Torah* and *bizzayon talmidei hakhamim!* An even more recent collection of essays where the term *Daas Torah* is used very freely is *Ve-Zarah ha-Shemesh: Yisudah ve-Mishnatah shel Degel ha-Torah* (Bnei Brak, 1990). Of course, *Degel ha-Torah* claims to be the "true" inheritor of the "original" Agudah, of the Agudah, that is, before it became "corrupted."

²⁹Finkleman, *The Chazon Ish*, 254.

clear, do I give an answer."³⁰ This description clearly identifies the decision-making process for arriving at a *Daas Torah* decision with that of halakhic *pesak*.

A similar ambiguity is found in the famous *issur* forbidding Orthodox participation in the Synagogue Council of America. On the one hand, participation in the Synagogue Council was declared to be forbidden according to *Din Torah*, suggesting that the *issur* should be viewed as a classic halakhic *pesak*, based on halakhic sources. On the other hand, no formal responsum was ever issued and the *issur* has often been described and defended as an expression of *Daas Torah*.³¹

³⁰See E. Shulsinger, *Al Mishkenot Ha-Ro'im* (Bnei Brak, 1988), 69-70. A somewhat garbled version of this account can be found in Finkelman, *The Chazon Ish*, 199-200.

³¹Rabbi Moshe Tendler, who is both the son-in-law of Rav Moshe Feinstein and a noted rabbinic scholar in his own right, insists that Rav Moshe always saw the ban on Orthodox participation in the Synagogue Council of America as being a matter of strict *pesak halakhah*. On the other hand, as I have argued in this chapter, the whole way the ban was issued, the fact that no formal responsum was ever forthcoming, and the manner in which the ban has generally been presented by its defenders all point to a different conclusion. In this connection, I should also mention that Rabbi Tendler has stated that Rav Moshe in private would allow himself to make critical remarks about the concept of *Daas Torah*. "Why are people talking about *Daas Torah*—Rav Moshe was wont to exclaim—when they don't even know a Shakh or a Taz!" See, however, Rav Moshe's forceful exposition and defense of the notion of *Daas Torah* in "Following the Guidance of the Torah Personality," *Jewish Observer* 12:9 (December 1977): 20-23, a transcription of an oral address of Rav Moshe at a convention of the Agudas Yisrael. Assuming the transcription of the *Jewish Observer* to be accurate, we are confronted with an apparent discrepancy. Perhaps—and I venture this suggestion with great diffidence and hesitation—we have here an example of the inconsistencies we sometimes encounter between the public affirmations of a public figure and his more private doubts and reservations.

For Rav Aharon Kotler's view of the *issur* regarding the Synagogue

In truth, the issues in connection with which *Daas Torah* has most often been invoked—participation in the Synagogue Council of America; relations with the non-Orthodox; *sherut leumi*; attitudes to the State of Israel and Zionism; the *shetahim* and *meridah be-umot*, and so on—are all of a mixed nature. Technical halakhic considerations merge with broad considerations of *hashkafah* and policy analysis. Moreover, to a large extent, although not entirely, the considerations of *hashkafah* and policy analysis determine which halakhic considerations are invoked and how they are analyzed and applied. Finally, these questions of *hashkafah* and policy analysis are highly charged insofar as they center around the cluster of challenges that the modern world has presented to traditional Judaism, and particularly insofar as the traditional world is sharply divided on how best to meet these challenges and thereby to secure the future of traditional Judaism.

The above leads me to suggest two further functions for the ideology of *Daas Torah*. In a very rich and stimulating paper,³² Rabbi Jonathan Sacks writes:

The transformations of Jewish modernity—emancipation and its social and intellectual implications—have been . . . profound. But there were deep disagreements as to what would constitute continuing the covenant in such a way as to maintain a *strict identity with the Jewish past*. . . . Was the emancipation a lessening, continuation, or deepening of *galut*? Was Jewish segregation from general culture in the Middle Ages an aberration or an ideal? What was the role of secular action in bringing about the independent sovereignty of

Council, see the letter referred to in n. 22. Rav Aharon's language in this letter seems more ideological than strictly halakhic, although one perhaps shouldn't make too much of this, given the personal and somewhat informal context of his statement.

³²See Rabbi Jonathan Sacks's essay, "Creativity and Innovation in *Halakhah*," in this volume.

Israel? To what extent is Israel still *galut*? In an age where Jews identify as Jews but not through *halakhah*, should such Jews be, as far as possible, included or excluded by the halakhic system? Approaches to these and similar questions, more than any other factor, have been decisive in the halakhic process for the past two centuries.

Let us develop Rabbi Sacks's line of thought further. It is certainly no coincidence that it is precisely "approaches to these and similar questions" that have been decisive in *all* issues where *Daas Torah* has been invoked.³³ For, as Rabbi Sacks correctly states

³³See, for example, the range of issues covered in the anthology, *Yalkut Daas Torah me-Et Gedolei ha-Dor ha-Aharon*, printed as the second part of the "Nezah" edition of Rav Elhanan Wasserman's *Ikveta de-Meshiha* (Bnei Brak, 1989). In this connection, it is particularly worth noting R. Hayyim Ozer's invoking of the notion of *Daas Torah* in his famous letter to R. Meir Hildesheimer opposing the latter's attempt to relocate the Hildesheimer Rabbinical Seminary. See n. 15, above. R. Hayyim Ozer and R. Hildesheimer in their clash concerning the propriety of this relocation were, of course, disagreeing about an issue in which questions of *hashkafah* and policy played the critical role, the key question being how traditional Judaism in the area of higher Jewish education could best respond to the challenges posed to it by the modern world. In light of our analysis, it comes as no surprise, then, that R. Hayyim Ozer invoked the notion of *Daas Torah* in his letter to lend weight to his strongly held view as to what that response should be, a view that, of course, reflected his generally rejectionist approach to modernity, and to squelch R. Hildesheimer's attempt at implementing a very different response, a response that, of course, reflected R. Hildesheimer's more positive and accommodationist approach to the modern world. Since the issue in this letter involved the relocation of the Hildesheimer Seminary from Berlin to the land of Israel, and these two areas were not in R. Hayyim Ozer's Eastern European rabbinic bailiwick, R. Hayyim Ozer could not, in espousing his view, rely upon his position as communal rav of Vilna or as the head of various Eastern European rabbinical organizations, but only upon his own personal authority as one whose opinion constituted *Daas Torah*. For a

and as we have similarly noted, the traditional Jewish community has become deeply divided on these issues. While large segments of the Orthodox community have adopted various rejectionist approaches to modernity, viewing modernity in most or all of its manifestations as empty at best, and, at worst, corrupt and dangerous and a threat to traditional religious values, other segments of the Orthodox community, while not unaware of the dangers the modern world poses to tradition, have adopted, again with variations, a more positive and affirmative attitude to the modern world and its values. And it is precisely on this point that one critical difference between the concept of *Daas Torah* and that of halakhic *pesak* enables the notion of *Daas Torah* to serve as an important weapon in the hands of the antimodern rejectionist Orthodox camp in their ongoing struggle with the more modern affirmative camp.

The methodology of halakhic *pesak*—even halakhic *pesak* involving questions of *hashkafah*—with its citation and analysis of sources, use of argumentation, and all the rest, acknowledges the possibility and, more important, the legitimacy of different viewpoints, based upon differing modes of argumentation, analysis, and interpretation. Halakhic *pesak* allows for, nay, encourages, halakhic debate and halakhic pluralism. An expression of *Daas Torah*, however, presents itself, sans argumentation and analysis, as the authentic Torah viewpoint on the issue in question, thus implicitly—and, at times, explicitly—branding all other positions as inauthentic and illegitimate. Thus, the rejectionist camp invokes *Daas Torah* with respect to its approach to the wide range of issues and challenges posed by the modern world and the breakdown of

thorough account of the abortive attempt to relocate the Hildesheimer Seminary, see Christhard Hoffman and Daniel Schwartz, "Early but Opposed—Supported but Late: Two Berlin Seminaries Which Attempted to Move Abroad," *Leo Baeck Institute Yearbook* 36 (1991): 267–304. (The section on the Hildesheimer Seminary was written by Daniel Schwartz and is to be found on 267–83, 296–300.)

tradition, issues over which it and the modern camp sharply disagree, precisely in order to present its approach, both to itself and others, as the sole legitimate *Torah* approach and to *delegitimize* thereby the more accepting approach of the modern Orthodox camp.³⁴

But more. *Daas Torah* does not only serve the function of underwriting the sole and exclusive legitimacy of the rejectionist approach to modernity; it is an essential constitutive element of that approach. And at this point we come to another, perhaps even deeper, difference between *Daas Torah* and halakhic *pesak*. For the difference between the two is not just a matter of halakhic—and particularly *hashkafic!*—pluralism versus halakhic—and *hashkafic!*—uniformity. The difference also touches upon profound epistemological and axiological matters. For whereas halakhic *pesak* allows for, indeed encourages, reasoned debate and disagreement—within, of course, the framework of the halakhic system—*Daas Torah*, as indicated by the comments of Rav Dessler and Rabbi Weinberger, requires the suppression of one's own critical faculties and submission to the superior, if at times incomprehensible, wisdom of the *gadol*. And one must submit to the views of the *gadol* not simply because the halakhic system, in terms of its complex rules for resolving disputes, ascribes greater authority to his decisions. Rather, the views of the *gadol* are true and authentic, while my differing views are false and inauthentic. What is required of me, then, is, again, intellectual submission and faith in the *gadol* and his superior wisdom.

This being the case, it follows that the ideology of *Daas Torah* is a central, perhaps the central, element in the ethic of submission that characterizes the rejectionist approach. For at the heart of the rejectionist approach is the view that unquestioning submission to authority, the authority of *halakhah*, of the *gadol*, of God, is the

³⁴For a similar explanation, see M. Herbert Danzger, *Returning to Tradition: The Contemporary Revival of Orthodox Judaism* (New Haven: Yale University Press, 1989), 167.

highest religious value and one that is absolutely opposed to the modern values of intellectual autonomy and self-expression. It is, therefore, only to be expected that two of the greatest representatives and thinkers of the rejectionist community, the *Hazon Ish* and Rav Dessler, who were, as we have seen, forceful proponents of the ideology of *Daas Torah*, were also profound exponents of the ethic of submission. It would take us beyond the confines of this discussion to examine this ethic of submission in any depth and how it finds expression in—indeed, is the cornerstone of—the writings of Rav Dessler and the *Hazon Ish*.³⁵ Here two statements made by the *Hazon Ish* must suffice.

First, in a letter replying to a correspondent who was apparently critical of certain aggadic statements of the Sages, the *Hazon Ish* begins by arguing that it is “our obligation to keep far from speculation [*mehkar*],” goes on to say that he just wishes to be a “simple Jew” who is concerned with the “what,” not the “why” of Judaism, and climaxes his letter with the remarkable statement: “We recoil upon hearing the casting of doubt on any statement of *Hazal*, whether *halakhah* or *aggadah*, and view [such critical remarks] as constituting blasphemy, heaven forbid.”³⁶

³⁵In a paper, “The Hazon Ish: Haredi Critic of Traditional Orthodoxy,” to be published in a volume of essays, *The Uses of Tradition: Jewish Continuity Since The Emancipation*, ed. Jack Wertheimer, I discuss at some length the issue of the ethic of submission as found in the writings of the *Hazon Ish*.

³⁶*Kovetz Iggerot*, vol. 1, letter 15 (43). Cf. *Kovetz Iggerot*, vol. 3 (Bnei Brak, 1990), letter 14 (43), where the *Hazon Ish*’s insistence that all *aggadot* in the Talmud are authoritative results in a rather forced interpretation on his part of a statement of the Rashba. Contrast this view of the *Hazon Ish* with the views on *aggadah* of Rav David Tzevi Hoffman in his Introduction to his commentary on *Va-Yikra* and Rav Samson Raphael Hirsch in his two Hebrew letters to Rav Hile Wechsler, published by Mordecai Breuer in *Ha-Maayan* (*Tevet* 5736) and trans. into English by Joseph Munk in *L’Eylah* 27 (*Pesah* 5749): 30–35. The attempt on the part of Rav Yosef Avraham Wolf, the well-known head of the Beth Jacob movement in Eretz

Second, at the beginning of Chapter 4 of *Eemunah U-Bitahon*, the *Hazon Ish* states that “at the root [of man’s manifold evil traits] there is only . . . one evil trait. This evil trait is allowing one’s natural life to flow along its natural course.”³⁷ The *Hazon Ish* goes on to argue, in that chapter, that the only way to rectify this evil trait is through absolute submission to the precise, extensive, and exceptionally difficult requirements of *halakhah* (*dikduk ha-din*).³⁸

Of course, I hasten to add, any Orthodox approach, be it traditionalist or modern, must make room for authority and submission within its worldview. However, the modern Orthodox approach, precisely because it is both modern and Orthodox, also seeks—within, of course, the authoritative framework of *halakhah*—to make room for such modern values as intellectual autonomy, creativity, critical independence, and self-expression. The writings of Rav Soloveitchik, in particular his classic essay “U-Bikashtem Mi-Sham,” constitute, in my view, the most extensive and profound attempt in our age to establish a delicate and exquisite balance between these two poles.³⁹ Here, in an attempt to draw as

Yisrael and confidante of the *Hazon Ish*, to reconcile the view of the *Hazon Ish* with that of Rav Hoffman—Rav Wolf was unaware of the two at that time as yet unpublished letters of Rav Hirsch—in his essay, “Shiluv Eemunat Torah she-be-al Peh be-Horaah,” in *Ha-Tekufah u-Baayotehah* (Bnei Brak, 1981), 125–26, is exceptionally strained and singularly unconvincing, as indeed is Rav Wolf’s entire valiant but quixotic and ultimately misguided attempt to reconcile the *haredi* ideology of the *Hazon Ish* with the *Torah im Derekh Eretz* ideology of Rav Hirsch, Rav Hoffman, and Rav Yehiel Yaakov Weinberg. There really are limits as to how far one can go in attempting to square the circle.

³⁷*Hazon Ish, Eemunah U-Bitahon*, 44.

³⁸I discuss this matter in full in my forthcoming article, “The Hazon Ish.”

³⁹See Aviezer Ravitsky, “Kinyan ha-Daat be-Haguto: Bein ha-Rambam le-NeoKantianism,” in *Sefer ha-Yovel li-Kebod ha-Rav Yosef Soloveitchik Shlit’a*, ed. R. Shaul Yisraeli et al. (Jerusalem: Mossad ha-Rav Kook, 1984),

sharp a contrast as possible, I would merely like to set down beside the statement of the *Hazon Ish* in Chapter 4 of *Emumah U-Bitahon* cited above, a statement of a contemporary modern Orthodox thinker.

[My approach] . . . is a kind of theistic humanism . . . grounded in the doctrine of *Imagio Dei*, . . . [Since] human beings were created in the image of God . . . it follows that since God is all good, all human characteristics must be essentially good as well.⁴⁰

The difference between the "theistic humanism" represented in this statement and the "theistic antihumanism," if we may term it such, of the *Hazon Ish* could not be clearer!

It is precisely because the modern Orthodox reject the ethic of submission that they are highly suspicious of the entire ideology of *Daas Torah*. Indeed, one astute observer has gone so far as to argue that it is precisely their opposing views on the issue of *Daas Torah* that serve as the key difference between the rejectionist camp and the modernist camp.

We suggest . . . that the critical feature distinguishing the modernist [orthodox] from the traditionalist orthodox is the *nature and scope of the authority to which each is committed*. Traditionalists allow their leaders authority in political and

125-51 [= "Rabbi Joseph B. Soloveitchik on Human Knowledge: Between Maimonides and NeoKantianism," *Modern Judaism* 6:2 (May 1986): 157-88]; Lawrence Kaplan, "Rabbi Joseph B. Soloveitchik's Philosophy of Halakhah," *The Jewish Law Annual* 7 (1987): 139-97. I will discuss this issue as well in two forthcoming articles on Rabbi Soloveitchik: "From Freedom to Necessity and Back Again: Man's Religious Odyssey in the Thought of Rabbi Joseph Soloveitchik," and "Rabbi Joseph Soloveitchik as a Modern Halakhic Thinker."

⁴⁰Moshe Sokol, "Personal Autonomy and Religious Authority," in this volume, p. 204.

personal matters, and the leadership attempts to exercise authority beyond the specifics of halakhah. . . . Modernists, in contrast, seek maximum scope for personal decision making and their leadership limits its authority only to halakhah.⁴¹

We would state matters somewhat differently. While the disagreement over *Daas Torah* between the modern Orthodox and the traditionalist Orthodox is certainly important, it is, as we have sought to show, symptomatic of a deeper division between them, namely, the different relative weights they assign to submission, authority, and self-overcoming, on the one hand, and autonomy, independence, and self-expression on the other. In a word, the debate over *Daas Torah* is ultimately a debate over the ethic of submission, over what is the proper posture of the halakhic Jew standing in the presence of God.⁴²

In sum, this analysis of the differences between halakhic *pesak* and *Daas Torah* and between the rejectionist traditionalist Orthodox and the affirmative modern Orthodox has, I believe, brought to light two additional functions of the ideology of *Daas Torah*. First, the ideology of *Daas Torah* enables the traditionalist Orthodox to present their rejectionist approach to modernity as being the sole legitimate approach, thereby delegitimizing the more affirmative approach of the modern Orthodox. Second, and even more important, the ideology of *Daas Torah* is a key element of that

⁴¹Danzger, *Returning to Tradition*, 164.

⁴²After I had completed this essay, I came across Aryeh Fishman's important monograph, *Bein Dat le-Ideologyah: Yahadut ve-Modernizatziyah be-Kibbutz ha-Dati* (Jerusalem: Yad Yitzhak Ben-Zvi, 1990). In chap. 8 of his book, "Between Autonomous Religious Authority and Heteronomous Religious Authority" (164-88), Fishman discusses the issue of *Daas Torah* in the context of the manifold tensions that have arisen between the religious kibbutz movement and the established rabbinic and, as the chapter title indicates, approaches this issue from a perspective similar to my own.

rejectionist approach, being perhaps the quintessential expression of the traditionalist ethic of submission.⁴³

DAAS TORAH AND CLASSICAL CONCEPTIONS OF RABBINIC AUTHORITY

A proponent of the ideology of *Daas Torah* might offer the following reply to the preceding analysis. "Even were your analysis correct—which, of course, I deny—it would still be irrelevant and, worse, misleading. For *Daas Torah* is not really a new concept of rabbinic authority at all, but just a reformulation, in modern terms, of a classical type of rabbinic authority. And if certain modern needs and challenges have led us to stress this concept, this does not mean that the concept itself is a modern one. And if *Daas Torah* is, as you say, the quintessential expression of the ethic of submission, perhaps this simply demonstrates that this ethic itself is well grounded in the classical sources of Judaism."

What, then, are the roots in the classical sources of the concept of *Daas Torah*?

The two key classical concepts in which *Daas Torah* is supposedly grounded are provided by Rav Dessler in his already cited letter. Rav Dessler stated:

Our rabbis have told us to listen to the words of the Sages even if they tell us that right is left, and not to say, heaven forbid, that they certainly erred because little I can see their error with my own eyes. . . . This is the Torah view [*Daas Torah*] concerning faith in the Sages [*Emumat Hakhhamim*].

Rav Dessler refers to two concepts as forming the basis for the ideology of *Daas Torah*: (1) *lo tasur*, according to the interpretation of the *Sifre* as cited by Rashi in his commentary on Deuteronomy 17:11, and (2) *Emumat Hakhhamim*. Let us look at each in turn.

⁴³See below, nn. 70 and 84.

The Torah in Deuteronomy in speaking of the authority of the Great Court (*Bet Din ha-Gadol*) states: "You shall not deviate [*lo tasur*] from the verdict that they announce to you either to the left or to the right" (Deuteronomy 17:11).

The meaning and implication of the phrase "to the left or to the right" (*yamin u-semol*) are the subject of two differing and perhaps conflicting explanations dealing with the question as to whether one is obliged or forbidden to submit to a ruling of the Great Court if one believes or is convinced they erred.

The *Sifre* in commenting on the verse states: "Even if it appears to you [*marin be-eynekhaj*]⁴⁴ that they are telling you that right is left and left is right, listen to them."

This view of the *Sifre*, however, seems to be directly contradicted by an interpretation of the verse offered in *Yerushalmi Horayot*. "One might think that if they tell you that right is left and left is right, you must listen to them. Therefore, the verse tells us to go to the left or to the right, until they tell you that right is right and left is left."

This position taken by the *Yerushalmi* would, in turn, seem to be corroborated by the law set down in the *Gemara* in *Bavli Horayot* 2b, codified by the Rambam (*Hilkhot Sheggagot* 13:5) and cited by the Ramban (*Sefer ha-Mitzvot*, critical notes on Rambam's *Shores* 1), that if a sage or a student capable of issuing a ruling (*talmid she-higia le-horaah*) is convinced that the Great Court erred in a particular ruling he is forbidden to follow that ruling on the basis of its being a positive commandment to obey the charges of the Sages (*mitzvah lishmo'a divrei hakhamim*).

This apparent or real contradiction between the *Sifre* on the one hand and the *Yerushalmi Horayot* and the various other supporting sources on the other is needless to say a well-known and much discussed subject.⁴⁵ One can, of course, assume that the

⁴⁴The text of the Gra is "nirin be-eynekhaj"; the *Pesikta Zutarta* reads *domeh be-eynekhaj*.

⁴⁵For recent discussions of the problem, see Rav Menahem Kasher,

sources are simply contradictory.⁴⁶ If one assumes, however, that

Torah Sheleimah, vol. 17 (New York: American Biblical Encyclopedia Society, 1956), 293-94; Menahem Elon, *Ha-Mishpat ha-Ivri*, vol. 1 (Jerusalem: Magnesi, 1973), 225-27; Michael Z. Nehorai, *Bein Yedah le-Emunah* (Jerusalem: Division of Education, Division for Torah Culture, 1982); Yitzhak A. Twersky, "Sanhedrin Mevarim o Mehavim Halakhah," in *Beit Yosef Shaul*, vol. 3 (New York: Rabbi Isaac Elchanan Theological Seminary, 1989), 269-76; Yaakov Ariel, "Lo Tasur mi-Kol asher Yurukha," *Tehumin* 11 (1990): 24-30; and Jose Faur, *Iyyunim be-Mishneh Torah le-ha-Rambam* (Jerusalem: Mossad ha-Rav Kook, 1978), 21-23. For two important earlier discussions by a halakhic giant who combined both traditional and modern rabbinic scholarship, see Rav David Tzevi Hoffman, *The Great Court*, trans. from the German by Paul Forchheimer (New York: Feldheim, 1977), 110-17; and *Melamed le-Ho'il*, vol. 3, no. 82 (Frankfurt: Hermon, 1926), 127-28. Both Faur and Rav Hoffman, in both of his essays, provide the reader with very rich guidance to the primary sources. Two thoughtful and learned essays by Avi Sagie (Schweitzer) that touch on this issue, though it is not their main concern, are "Iyyun be-Shenei Modelim shel Musag ha-Emet ha-Hilkhatit u-Mashmat'utam," in *Higayyon*, ed. M. Koppel and E. Merzbach (Jerusalem: Bar-Ilan, 1989), 69-90; and "Baavat ha-Hakhrach ha-Hilkhatit ve-ha-Emet ha-Hilkhatit," *Dine Israel* 15 (1989-90): 1-38. A more homiletic treatment of the problem, with, however, an interesting range of primary sources, may be found in Y. Nahshoni "Afilu Omrim Lekha al Yamin she-Hu Semol," in *Hagut be-Parshiyot ha-Torah*, vol. 2 (Bnei Brak, 1984), 773-77.

⁴⁶See Rav Hoffman, *Melamed le-Ho'il*; and Elon, *Ha-Mishpat ha-Ivri*, 226 n. 19. Rav Hoffman argues that the root of the debate is exegetical in nature, Professor Elon, that it is more ideological in character. Obviously, these two approaches need not be mutually exclusive, in other words, one may claim, for example, that the dispute at its deepest level is ideological, but that on a more formal level it expresses itself in the varying ways in which the verse is interpreted. It is striking that while Rav Hoffman in his earlier study, *The Great Court*, tries to harmonize the *Sifre* and the *Yerushalmi*, in his later study in *Melamed le-Ho'il* he argues that all attempts at harmonization are strained and that the sources are in disagreement.

the sources are not contradictory, then there are a number of different ways of reconciling them. Perhaps they are talking about different persons, different measures of conviction, different types of rulings, or different stages in issuing a particular ruling. For example, the *Sifre* may be speaking about someone who is not a scholar or a student capable of issuing a ruling, where the *Yerushalmi Horayot* (and obviously the *Bavli*) is speaking only of a scholar or a student capable of issuing a ruling,⁴⁷ or, the *Sifre* may be speaking about someone who *believes* that the court has erred—note the use of the phrase "*marin be-eynekha*" (it appears to you)—where the *Yerushalmi* is speaking of one who is absolutely certain the court has erred,⁴⁸ or, again, the *Sifre* may be speaking of an error in judgment (*ta'ut be-shikul ha-daat*), and the *Yerushalmi* of an error involving the oversight of an explicit authoritative precedent (*ta'ut bi-devar mishnah*)⁴⁹—to put this another way, the *Sifre* may be referring to an error in *dinin mugla'im* where the *Yerushalmi* may be concerned with an error in a *guf Torah*,⁵⁰ finally, it may be that the *Yerushalmi* is speaking of the time period immediately following upon the ruling, when the sage who is convinced the court erred must disregard its ruling, where the *Sifre* is referring to a situation in

⁴⁷See Nehorai, *Bein Yedah le-Emunah*, 15.

⁴⁸See the sources cited in Hoffman, *The Great Court*, and also *Ha-Ketav ve-ha-Kabbalah*, and *Torah Temimah* on Deuteronomy 17:11.

⁴⁹This is the way that Twersky, "Sanhedrin Mevarim," 274, understands the Ramban's resolution (*Sefer ha-Mitzvot, Shorsh 1*) of the contradiction. But see n. 51. For recent discussions of the difference between *ta'ut be-shikul ha-daat* and *ta'ut bi-devar mishnah*, based on an analysis of the medieval sources, see Joel Roth, *The Halakhic Process* (New York: Jewish Theological Seminary, 1986), 90-103; and Rabbi Michael Rosensweig, "Eilu ve-Eilu Divrei Elohim Hayyim: Halakhic Pluralism and Theories of Controversy," in this volume. In general, there is a significant and suggestive overlap between the subjects treated in Rabbi Rosensweig's important paper and the issues treated in this section of this chapter.

⁵⁰This is the way Faur, *Iyyunim be-Mishneh Torah*, 22-23, understands the Ramban's implicit resolution of the problem.

which the sage brings his arguments to the court after the ruling is issued, and the court, after discussing the arguments, rejects them and maintains its original position.⁵¹ Nor are these varying possi-

⁵¹This would seem to be the way the Ramban (*Sefer ha-Mizvo*, critical notes on the Ramban's *Shorsh* 1) resolves the contradiction. It should be noted that the Ramban does not specifically discuss the *Yenukhalmi Horayot* but rather focuses on the *Gemara* at the beginning of *Bavli Horayot*. Nevertheless, one may safely assume—as do most later scholars who discuss the Ramban—that the Ramban would claim that the *Yenukhalmi* is referring to the same situation as the *Bavli*. See, for example, the excellent analysis of the *Hasdei David*, vol. 2 (Livorno, 1790), 102:2; Rav Hoffman, *The Great Court*, 113–14; Maharitz Hayot, “Maamar Lo Tasur,” in *Torat Neivim*, 98; and Yaakov Ariel, “Lo Tasur,” 20–21.

Twersky (see note 49) claims that the Ramban's distinction is equivalent to a distinction between *ta'ut be-shikul ha-daat* and *ta'ut bi-devar mishnah*. As Twersky argues: “Before the sage came to the Sanhedrin, he believed that the Great Court erred *bi-devar mishnah*—i.e., were they to hear his arguments they would reverse their decision and concur with his view. Therefore, he is obliged to act in accordance with his view against the Sanhedrin. However, once he came before them and they rejected his arguments, etc., there is no possibility that the ruling of the Sanhedrin was an error *bi-devar mishnah*, but [there is only the possibility] of an error *be-shikul ha-daat*” (p. 274). It would follow, however, from Twersky's argument that if the sage, to begin with, before he came to the Sanhedrin, felt that it had committed an error *be-shikul ha-daat* in permitting that which is forbidden, he would be permitted to act in accordance with its ruling and would not be obliged to present his arguments before the Sanhedrin. But there are no grounds for assuming that this is the Ramban's view. Rather, the Ramban seems to suggest that if the sage believes the Sanhedrin erred in permitting that which is forbidden, whether the error be one of *devar mishnah* or of *shikul ha-daat*, he is not permitted to act in accordance with its ruling and must present his arguments before it. Only *after* he presents his arguments and the court rejects them may he then act in accordance with its ruling and submit to its authority, even if he still believes that it erred *be-shikul ha-daat*. (See *Hasdei David* on this last matter.) The point of the Ramban seems to be

bilities exclusive of one another. In fact, they may be cumulative, in other words, a person is forbidden to obey the ruling of a Great Court which he believes is erroneous only if (1) he is a sage or a student who is capable of issuing a ruling, (2) he is *convinced* the ruling is erroneous, (3) he is convinced that it is an error *bi-devar mishnah* or *be-guf torah*, and (4) he has not as yet presented his arguments concerning the erroneous nature of the ruling to the Great Court.⁵²

Let us, however, for the purposes of this discussion, put the *Yenukhalmi* and *Bavli Horayot* to the side and focus on the *Sifre*, seeking to trace its fortunes.

As we saw, the injunction in the *Sifre* is not stated in absolute terms. Its use of the phrase “even if it appears to you” leaves open the possibility, noted above, that one who does not merely believe but is convinced that the court's ruling is erroneous is not obliged—indeed, is not permitted—to follow that ruling. However, Rashi, in his Commentary on Deuteronomy 17:11, rephrases the *Sifre* in a more categorical manner. “Even if they tell you that right is left and left is right.”⁵³

that a qualified scholar must submit to the ruling of the Great Court, even if he believes that ruling to be in error, only if that ruling has been issued *after consideration of all the relevant evidence, precedents, and arguments*. Only such a ruling can be authoritative. Obviously, under such circumstances, the error, if it be such, can only be an error *be-shikul ha-daat*. This view of the Ramban is followed by the *Sefer ha-Hinukh*, negative commandment, no. 508 (Chavel ed., 631–32). See, as well, Maharitz Hayot, “Maamar Lo Tasur,” 99–102.

⁵²But see the previous note, where we have argued that according to the Ramban, even if a sage believed the ruling of the Great Court permitting that which is forbidden to be an error *be-shikul ha-daat* he would still not be allowed to act on its ruling and would be obliged to present his arguments against its ruling before the Court for its consideration.

⁵³Already the Ramban in his comment on Deuteronomy 17:11 differentiated between *leshon Rashi* and *leshon Sifre*. Cf., however, *Shir ha-Shirim Rabbah* 1:18 (Dunsky ed., 19) for the reading “*afilu she-yomru lekha*.”

This substitution of "they tell you" (*omar lekha*) for "it appears to you" (*marin be-eyenekha*) would seem to indicate that even if one is convinced the court's ruling is erroneous, one is still obliged to heed it.

Why? Why would one have to heed the ruling of the Great Court even if one is convinced the ruling is mistaken. The Ramban, in his *Commentary on the Torah* on this verse, picks up on Rashī's reformulation of the *Sifre* and offers two varying, perhaps conflicting, explanations.

The import is that even if you think that they are wrong, and the matter is as obvious to you as your ability to distinguish between right and left, follow their commandments. And do not say, "How can I eat *helev* or how can I kill this innocent person?" but say, "Thus was I commanded by the Lord who enjoined the commandments, that I should perform all His commandments in accordance with all that they who stand before Him in the place that He shall choose shall teach me to do. And it is on the basis of their understanding of its meaning that He gave me the Torah, even if they are mistaken." . . . And the need for this commandment is very great. For the Torah was given to us in written form, and it is known that not all views will be in agreement regarding newly arising matters. Thus, disputes will multiply and the [one] Torah will become many *Torot*. Scripture, therefore, set down the law that we are to obey the Great Court that stands before God in the place He shall choose in all that they tell us concerning the interpretation of the Torah. . . . For it is in accordance with their understanding that He gave them the Torah, even if in your eyes [their ruling] seems to exchange right for left.

The Ramban in this explanation—in essence, the same explanation he offers in his *Sefer ha-Mitzvot*⁵⁴—is making two points.

⁵⁴*Sefer ha-Mitzvot*, critical notes on the Ramban's *Shorash* 1. The

First, the Divine Lawgiver has determined that the Sages' interpretation of the Law becomes the Law. Second, the reason for this determination is to ensure uniformity of halakhic practice, so that "the [one] Torah" should not "become many *Torot*." There is, however, a certain ambiguity here regarding the question of error. At one point the Ramban seems to grant the possibility of error, but deems it irrelevant.⁵⁵ The overall thrust of his statement, however, is to make the very issues of truth and falsehood, error and infallibility inapplicable. For the meaning of the scriptural text is indeterminate and only achieves determinate meaning via this interpretation of the Sages.⁵⁶

Ramban uses almost exactly the same language in *Sefer ha-Mitzvot* as he does in his *Commentary*. There are slight differences in wording between the two passages, most probably of no significance. But see the next note.^{55a} And it is on the basis of their understanding of its meaning that He gave me the Torah, even if they are mistaken." The Ramban in *Sefer ha-Mitzvot* words this slightly differently, perhaps weakening the idea of error.

⁵⁶This seems to be the import of the conclusion of the Ramban's statement. It is in the light of this contention of the Ramban that we understand his citation of the famous story in *Rosh ha-Shanah* 25a about the debate between Rabban Gamliel and Rabbi Joshua. Just as the Great Court's determination of a particular day as the new month doesn't simply affirm an already existing reality but constitutes that day as the new month, so, in an analogous manner, the Great Court's understanding of the meaning of a verse is similarly constitutive. For a different understanding of why the Ramban cites this story, see Twersky, "Sanhedrin Mevarim," 274. Cf., as well, R. Yitzhak Hutner, *Paḥad Yitzhak: Pesah* (New York: Gur Aryeh, 1970), 64–65 (31:2).

Precisely the ambiguity in the Ramban discussed in the text has allowed Avi Sagie to state that according to the Ramban, "there can be a conflict between the divine truth and the human truth of the Sages, but God revealed His will that [in such cases] the human truth prevail," while, at the same time, it has permitted Aaron Kirschenbaum to argue "that according to the Ramban there is no objective 'right'. The 'right' is what the Sages declare to be 'right'." See Sagie, "Yyūn be-Shenei Modelim," 79

The Ramban, however, continues:

And certainly [you must follow their rulings] for you ought to think that they are telling you regarding the right that it is right; for God's spirit is upon "the ministers of His Sanctuary" (Ezekiel 45:4) and "He does not abandon His pious ones [*hasidav*]; they are preserved forever" (Psalms 37:28) from error and stumbling.⁵⁷

and 88 n. 34; and Kirschenbaum, "Dinei ha-Yosher be-Mishpat ha-Ivri," *Daat* 13 (Summer 1984): 50. (Again, the chapter by Rabbi Michael Rosensweig in this volume sheds much light on this issue.)

It should be noted that this comment of the Ramban was extraordinarily influential and formed the basis of almost all subsequent discussions of the *Sifre* and Rashi. See, for example, *Sefer ha-Hinukh*, negative commandment, no. 508 (Chavel ed., 671); *Derashot ha-Ran*, no. 11 (Feldman edition, 198); Mizrahi; *Hasdei David*; Maharitz Hayyot; Rav Hoffman, *The Great Court*. (For the last three sources cited, see above, n. 51.)

⁵⁷It is worth emphasizing that the Ramban does not cite this reason in his *Sefer ha-Mitzvot*. It has not been noted, to my knowledge, that the Ramban is basically structuring his comment on Deuteronomy 17:11 as an explanation and an expansion of Rashi's comment. In the first part of his comment the Ramban explains the reason for obeying the Great Court "even if—citing Rashi—they tell you that right is left and left is right." He then proceeds in this second part of his comment to explain Rashi's enigmatic statement "and certainly if they tell you that right is right and left is left." *Peshitai Mai ka mashma lani?* According to the Ramban, this second statement of Rashi does not refer to a second situation, but to a second reason for submitting to the authority of the Great Court even when one thinks that it has erred in its ruling: in other words, in the Ramban's view, Rashi's statement "*ve-kol she-ken she-omer lekha*" means *ve-kol she-ken she-yesh lekha lahshev she-omrim lekha*." It is not surprising, then, that the Ramban in the *Sefer ha-Mitzvot*, where he is explaining the *Sifre* and not Rashi, leaves out the suggestion of divine protection from error put forward in his commentary. (That this notion of divine protection from error is to be found only in the Ramban's commentary and not in his *Sefer ha-Mitzvot* has been pointed out by Gerald Blidstein. See Blidstein,

According to this explanation, the concept of error in interpretation is meaningful, but the Sages are divinely prevented from erring. Here, then, we have a view approaching, though by no means identical with, that of *Daas Torah*.

A view similar to this second explanation of the Ramban is offered by Judah Halevi in the *Kuzari* (3:41).

The Biblical injunction "you shall not add to the word which I command you, nor shall you take away from it" (Deuteronomy 4:2) means the following: You shall not add to the word which the priests and judges in the place God shall choose have agreed to.⁵⁸ For they receive aid from the divine

⁵⁷Masoret ve-Sankhut Mosdit le-Raayon Torah she-be-al Peh be-Mishnat ha-Ramban," *Daat* 16 (Winter 1988): 21 n. 37. We cannot, however, agree with Professor Blidstein's explanation of this shift.)

Despite the fact that—if our argument is right—the Ramban in putting forward the notion of divine protection from error is not so much speaking in his own name as in Rashi's, this view, like the first part of his comment, has been very influential. See, for example, *Sifrei Haklammim*; and see the sources cited in Piekartz, *Hasidut Polin*, 83–87.

⁵⁸This view of Halevi that *Bal Tosif* applies to the individual and not the Great Court may be found as well in the *Guide* 3:41 (Pines ed., 563), and, in particular, *Hiddushai ha-Rashba* on *Rosh ha-Shanah* 16a, s.v. *lanah toke'in*. This statement of the Rashba has been much discussed by the *aharonim* (see *Pnei Yehoshua*, *Keren Orad*, etc.) and in general is identified with him. However, in light of the earlier statements in the *Kuzari* and the *Guide* we may say that the innovation of the Rashba is to take a well-known Spanish view that up until his time was only to be found in "aggadic," philosophical contexts, and to put it forward as a strictly halakhic claim. (That the Rashba is drawing upon an earlier view has already been noted by Professor Blidstein. See "Maimonides on 'Oral Law,'" *The Jewish Law Annual* 1 [1978]: 114 n. 15; and "Masoret ve-Sankhut Mosdit," 13 n. 9. Blidstein, however, has the Rashba drawing upon the *Kuzari* and overlooks his immediate source in the *Guide*.) For the standard medieval explanation of *Bal Tosif*, see Ramban, "Introduction" to the *Mishneh Torah*; *Hilkhot Mamrim* 2:9; *Hassagot* of the Rabad, ad. loc.;

presence. And since their number is very great it is impossible that they should agree to something which contradicts the Torah. Nor can they err since their wisdom is very great.

It should be immediately noted that both the Ramban and Halevi limit this halakhic infallibility specifically to the Great Court functioning in the temple precincts in the presence of God. And, in general, the special grant of authority contained in Deuteronomy 17:11 is, according to the view of many authorities, limited to the Great Court.⁵⁹

At the same time attempts were made through the centuries to extend the authority attaching to the Great Court to other institutions or individuals, attempts which, if put into practice, were more often than not bitterly opposed. The Gaon and contemporary of the Ramban, R. Samuel b. Ali, head of the Yeshiva of Baghdad, for example, put forth the radical and far-reaching claim that the *yeshivah* in Baghdad was the Sanhedrin reconstituted, and that the head of the *yeshivah* its Moses. R. Samuel b. Ali's statement is particularly important insofar as he attributes ultimate political and communal authority to the *yeshivah*, arguing that just as the king was subordinate to the Sanhedrin, so the *rosh golah* ought to be subordinate to the *yeshivah* and its Gaon.⁶⁰ This entire philosophy,

and the discussion of the *Or Sameah*, ad loc. (For a penetrating discussion of the Ramban's view, see the two articles by Bliedstein referred to immediately above.)

⁵⁹See, for example, *Responsa of the Ribash*, no. 271; and note in particular the very limited scope accorded to *lo tassar* in Maharitz Hayyot, "Maamar Lo Tassar," 102.

⁶⁰See the excerpts from the "pastoral" letter sent by R. Samuel B. Ali to the Jewish communities in Syria published by S. Assaf in *Tarbiz* 1:2 (1930): 64-66. For other Geonic views on the halakhic authority of the Babylonian *Yeshivot* and the *Geonim*, see the sources cited in Faur, *Iyyunim be-Mishneh Torah*, 33-36; Shalom Spiegel, "Le-Parshat ha-Pulmus shel Pirkei ben Baboi" in the Wolfson Jubilee Volume Jerusalem: American Academy for Jewish Research, 1965), 243-74; and, most recently, Me-

as is well known, was criticized, root and branch, by the Ramban. As the Ramban states in the *Mishneh Torah*, the injunction of *lo tassar* is limited to the Great Court.⁶¹ Even the *Gemara*, inasmuch as

nahem Ben-Sasson, "Shivrei Iggrot me-ha-Genizah: Le-Toldot Hiddush ha-Kesharim shel Yeshivot Bavel im ha-Maarav," *Tarbiz* 56 (1987): 180-88; and idem, "Ha-Mivneh, ha-Megamot ve-ha-Tokhen shel Hibbur Natan ha-Bavli" in *Tarbut ve-Hevrah be-Toldot Yisrael bi-Yemei ha-Beynayim*, ed. R. Bonfil et al. (Jerusalem: Merkaz Shazar, 1989), 159-62.

⁶¹*Hilkhot Mamrim* 1:2 and the list of commandments at the head of the section. Note, however, that in the *Sefer ha-Mitzvot* the Ramban states that the positive commandment "*al pi ha-Torah asher yomukha*" refers to the obligation to adhere to the commands of the Great Court (positive commandment, no. 174) but that the negative commandment, "*lo tassar*," refers to the prohibition against differing from the *baalei ha-kabbalah*, the "authorized bearers of the tradition" (negative commandment, no. 32). It is clear, however, from the "Introduction" to the *Mishneh Torah* that, for the Ramban, Ravina, and Rav Ashi and their generation were the last of the *baalei ha-kabbalah*. In any event, then, even according to the formulation in *Sefer ha-Mitzvot*, the prohibition of *lo tassar* is limited to dissenting from the rulings of the talmudic sages. Note, too, that already in the list of the commandments in the "Introduction" to the *Mishneh Torah*, the Ramban reformulates *lo tassar* to refer to rebelling against the authority of the [Great] Court. (The term *ha-gadol* is found in only some manuscripts.) In general, one can see an evolution of the Ramban's conception of the nature of *Torah she-be-ol peh* in the direction of an ever more prominent and ever more central role being accorded to the Great Court. Thus, in the Ramban's "Introduction" to his *Commentary on the Mishnah* there is no mention at all of the Great Court! In *Sefer ha-Mitzvot*, as we saw, the Ramban speaks of the Great Court in positive commandment, no. 174, but of the *baalei ha-kabbalah* in negative commandment, no. 312. It is only in the "Introduction" to the *Mishneh Torah* and in *Hilkhot Mamrim* that the Great Court becomes, for the Ramban, the linchpin of the entire halakhic system. Finally, in the *Guide*, both the prohibition against writing down the Oral Law (*Guide* 1:71) and that against adding to or detracting from the Law (*Guide* 3:41) are interpreted as prohibitions designed to maintain and uphold the authority of the Great Court as the

it was edited when the Great Court was no longer functioning, is authoritative only because it was accepted by all of Israel.⁶² Post-talmudic sages possess no inherent authority at all.⁶³ The Rambam gives yet a further twist of the knife by referring to all post-talmudic sages as *Geonim*.⁶⁴ Such a definition—and this was certainly its intention—stripped the traditional *Geonim*, the heads of the Babylonian *yeshivot*, of any special status.⁶⁵ Moreover, the Rambam's radical deflation of the authority of the traditional *Geonim* was

central, indeed sole, halakhic decision-making body, both judicial and legislative, and to rule out such activity on the part of individuals. (Note the similarity of language between 1:71 and 3:41.) I discuss this matter in full in a forthcoming article, "The Evolution of Maimonides' Conception of the Oral Law." See, in this connection, the two articles by Bildstein cited above, n. 58.

⁶²See Introduction to the *Mishneh Torah* (Lieberman ed., 11-12). For a discussion of this famous statement of the Rambam, see, Faur, *Iyyunim be-Mishneh Torah*, 42-46; Rabbi Professor Samuel Bialoblocki, "Ein le-Masoret ha-Perush ve-ha-Halakhah," in *Ein la-Masoret* (Bar-Ilan, 1971), 95-96; Rav Joseph B. Soloveitchik, "Keviat ha-Mo'adim al pi ha-Reiyah ve-al pi ha-Heshbon," *Or HaMizrach* 100 (1980): 19-20; *idem*, "Shnei Sugrei Masoret," in *Siturim le-Zekher Abba Mari*, vol. 1 (Jerusalem: Makhon Yerushalayim, 1983), 234-36.

⁶³Introduction to the *Mishneh Torah* (Lieberman ed., 10-11).

⁶⁴*Ibid.*, 12. "All the Sages who arose after the compilation of the Talmud and studied it . . . are called *Geonim*. And all these *Geonim* who arose in the land of Israel and in the land of *Shinar* and in *Seftavad* and in *Tarfat*. . . ." For the Rambam's attitude to the halakhic authority of the *Geonim*, see Faur, *Iyyunim be-Mishneh Torah*, 41-42, 45-46; Meir Havatzelet, *Ha-Rambam ve-ha-Geonim* (New York: Sura, 1967); and Robert Brody, "Maimonides' Attitude towards the Halakhic Innovations of the *Geonim*," in *The Thought of Moses Maimonides: Philosophical and Legal Studies*, ed. I. Robinson et al. (Lewiston, NY: Edwin Mellen, 1990), 183-208.

⁶⁵I am reminded, *mutatis mutandis*, of Henry Higgins's assertion, in Shaw's *Pygmalion*, that there is no difference between treating flower girls like duchesses and duchesses like flower girls.

complemented and reinforced by his attributing extensive powers to the *rosh golah*.⁶⁶

Another, more theoretical, attempt to extend the authority ascribed to the Great Court to contemporary rabbinic scholars is to be found in the *Sefer ha-Hinukh*. Both in the positive commandment "to heed all Great Courts which will arise" (no. 492), and the negative one "not to disobey the charge of the Great Court" (no. 508), the author of the *Sefer ha-Hinukh* insists that the obligation of obedience contained in these commandments is also owed to "the outstanding sage among us in our era" (no. 492) or to "the earlier sages and the outstanding rabbinic scholars and judges of our day" (no. 508).⁶⁷

The extension of the authority of the Great Court to contemporary institutions and individuals, it should be immediately noted, does not, of course, necessarily mean that such institutions or individuals are divinely protected from error, since, as we have

⁶⁶See *Hilkhot Sanhedrin* 4:13-14; *Commentary on the Mishnah, Bekhorot* 4:4; and *Iggeret ha-Rambam*, ed. Y. Shailar, vol. 1 (Jerusalem: Maalivot, 1988), 309. For the Rambam's view on the *Rosh Golah*, see Bildstein, *Ekrone Medinyim be-Mishnat ha-Rambam* (Jerusalem: Bar-Ilan, 1983), 46-48, 140-43.

⁶⁷Note that while Rabbi Samuel b. Ali extends the authority of the Great Court to the institution of the *yeshiva*, the *Sefer ha-Hinukh* extends it to individual rabbinic scholars. For a suggestive, if somewhat strained, attempt to narrow the differences between the *Sefer ha-Hinukh* and the Rambam, see Yehudah ha-Levi Amichai, "Daas Torah be-Inyanim she-einam Hilkhatiyim Muvhakim," *Tehumin* 11 (1990): 24-25. The Ran states that the authority of the post-Great Court sages in the matter of explanations of the laws of the Torah derives from "aharei rabbim le-hatit," while their authority in the matter of decrees or ordinances belongs to the penumbra of *lo tasur* (*be-derekh asmakhta*). See *Derashot Ha-Ran*, ed. Leon Feldman, no. 12 (Jerusalem: Makhon Shalem, 1973), 213. Of course, on the basic issue as to whether the decrees or ordinances of the Sages are covered by *lo tasur* altogether, the Ran sides with the Rambam against the Rambam.

seen, it is a matter of grave debate if even the Great Court itself enjoys such protection. On the one hand, R. Samuel b. Ali almost explicitly asserts that the rulings of the *Yeshivah* are free from error.⁶⁸ On the other hand, the *Sefer ha-Hinukh* follows the view expressed by the Ramban in the *Sefer ha-Mitzvot* and in his first explanation in his *Commentary on the Torah* in holding that the reason one may not deviate from the words of the sages, even if they say that right is left and left is right, is not because of any divine grant of infallibility but in order to ensure halakhic uniformity. Indeed, the *Sefer ha-Hinukh* goes even further than the Ramban in openly admitting the possibility of error.

The Sages have stated: "You shall not deviate . . . either to the right or the left". Even if they tell you that right is left and left is right." This is to say that *even if they err about a particular matter* it is better to suffer this particular error and let everyone always be subject to their wise understanding, than to let every person act in accordance with his own understanding. For this will lead to the destruction of religion, divisions among the people, and the complete decline of the nation.⁶⁹

⁶⁸Tarbiz 1.2:64. "Ki ha-zeh mishnerot datot Yisrael u-mitkayem mah she-be-yadam me-emanatan, she-lo yitu ve-lo yatu me-ha-amitor."

⁶⁹*Sefer ha-Hinukh*, negative commandment, no. 508. In this connection, the *Sefer ha-Hinukh* cites the famous story of the oven of Akhnai (*Baba Mezia* 59b), understanding it to mean that even though "the truth was with R. Eliezer," the majority still prevails "whether they declare the truth or even if they err." For a similar approach, see *Derashot ha-Ran*, no. 5, second version (84–86), no. 7 (112), and no. 11 (198–99). Note that the Ran also cites the story of the oven of Akhnai and understands it the same way as does the *Sefer ha-Hinukh*. There is a problem, however, with the view of the Ran. On the one hand, the Ran states that God in revealing to Moses *dikukei sofrim* revealed to him "all of the disputes and different opinions [that would arise] between the Jewish Sages" (85, 112). On the other hand, the Ran states that in a disagreement between the Sages, the majority view prevails "whether it conform to the truth or to its opposite"

To return, then, to the ideology of *Daas Torah*, we may say that this ideology takes as its basis the position of the *Sifre* as formulated by Rashi (ignoring the *Yerushalmi Horayot* and the various other sources which posit an obligation of dissent under certain circumstances), understands the *Sifre* in the light of the second explanation of the Ramban in his *Commentary on the Torah*,⁷⁰ and then extends this protection from error to the out-

(85, 112, 198–99). But, if both views were revealed to Moses, how can the Ran say that one of them is not true? Perhaps what the Ran wishes to say is that the divine revelation of both views only means that both views are valid and legitimate interpretations of the Torah. Nevertheless, only one of the two conflicting views can be in accord with the pure, "objective" truth of the Torah. Since, however, even the view which is not "true" was also revealed and is, therefore, legitimate, if it receives the assent of the majority, it, despite its not being "true," becomes the authoritative view, for "God, may He be blessed, has given the Sages of the generation the power of [making such] determinations (*halakhot*) in disputes between the Sages" (85, 112, 189). For the history of the interpretation of the story of the oven of Akhnai, see I. England, "Tanur shel Akhnai: Perushah shel Aggadah," *Shenaton ha-Mishpat ha-Lavi* 1 (1974): 45–56 [= "Majority Decision and Individual Truth: The Interpretation of the Oven of Akhnai Aggadah," *Tradition* 11:1–2 (Spring/Summer 1975): 137–72]. Surprisingly, Professor England does not even touch on what would seem to be the exceptionally relevant issue of the apparent contradiction between the *Sifre* and the *Yerushalmi Horayot* on *yamin u-semol*. Indeed, a close comparison of the history of interpretation of both cruxes—the story of the oven of Akhnai and the apparently contradictory rulings of the *Sifre* and *Yerushalmi Horayot*—and a determination as to what extent the issues they raise overlap or diverge is an important desideratum and would, I believe, prove enlightening. In this connection, many of Rabbi Michael Rosensweig's reflections in chap. 3 of this volume are highly pertinent.

⁷⁰It must be stated that there is a contemporary version of *Daas Torah* that does concede the possibility of authoritative scholars being in error. Thus, Rav Aryeh Tzevi Frommer, a noted Hasidic and rabbinic scholar, in a sermon delivered in 1930, set forth the following conception of *Daas Torah* (cited in Piekartz, *Hasidut Polin*, 95–96):

standing sages (*gedolim*) of contemporary times.⁷¹

And this is a fundamental principle of *Torah she-be-ol peh*, to negate our views [in submission] to the views of the sages of the generation, even in a case where we feel that the truth is with us. And even if they tell you that right is left, do not turn aside [lo *tasur*], from their words. . . . For this power, that the world and the entire Torah will be in accordance with the views [Daat] of the sages of the generation, even if the truth is not in accordance with their words, comes to us by the merit and the power of *Emunat Hakhamim*, since we negate our views when it is proper, even if it is against our intellect. . . . And we have inherited this power of *Emunat Hakhamim* from *Akedat Yitzhak*; for our father, Yitzhak was the first who negated his views and his intellect in the presence of the sage of the generation [i.e., Abraham], and he transmitted this power to all future generations.

Thus, Rav Frommer, on the one hand, and the Ramban and the *Sefer ha-Hinukh*, on the other, grant the views of contemporary sages—for the Ramban, the views of the Great Court—authoritative standing even in cases of error. However, their rationales for granting such standing differ radically. For the Ramban and the *Sefer ha-Hinukh*, the rationale is the need for halakhic uniformity, whereas for Rav Frommer, it is the need to demonstrate intellectual and religious submission, to perform an *akedah* of the intellect, to declare “*credo quia absurdum est*.” We can have no clearer example of the concept of *Daas Torah* as an expression of the ethic of self-submission! In general, we should sharply distinguish the spirit of self-abnegation toward the views of earlier outstanding scholars found in the views of Rav Frommer and other like-minded scholars (see Piekartz, *Hasidut Polin*, 93–96) from the spirit of extreme deference and respect toward the views of earlier outstanding scholars combined however with staunch and unyielding critical independence, as found in all the halakhic writings of the Ramban, and as given such eloquent expression in his prefaces to the *Commentary on the Torah*, the *Sefer ha-Mitzvot*, and *Milhamot A-Donai*. But see below, n. 83.

⁷¹Note how the Agudah ideology of *Daas Torah*, however, first extends the authority of the Great Court to contemporary outstanding rabbinic scholars and then seeks to institutionalize the personal charisma of these

Even this, however, does not amount to the full-blown ideology of *Daas Torah*. For *Daas Torah* not only extends the disputed divine protection from error granted to the Great Court to the *gedolim* of a particular generation, it further argues that this protection not only covers halakhic *pesak* but also communal policy, indeed, communal policy in particular.⁷² If anything, exponents of the ideology of *Daas Torah*, when it concerns traditional halakhic *pesak*, do espouse a form of halakhic pluralism and acknowledge the legitimacy and perhaps even the desirability of debate and dissent. It is only on the broad communal hashkafic issues that the notion of *Daas Torah*, with all of its aura and weight, is invoked. As we have already noted, this should be seen as an attempt to delegitimize dissent on these issues and to create an appearance of consensus where in fact there is no consensus.

That the ideology of *Daas Torah*, then, has a basis in and constitutes an extension of certain traditional sources regarding *lo tasur* . . . *yamin u-semol* is clear; that it very carefully ignores other scholars in the organizational form of the *Moetzes Gedolei ha-Torah*. Of course this ideology, in practice, sometimes works in reverse, in other words, a scholar, *ipso facto*, becomes a “*gadol*” by being appointed to the *Moetzes Gedolei ha-Torah*. For, were he not a true *gadol*, how could he be a member of that august body?

⁷²In this respect, the view of Rabbi Samuel b. Ali provides the clearest medieval precedent for the notion of *Daas Torah* inasmuch as it ascribes general political power and communal supremacy as well as halakhic authority to the Babylonian *yeshivot*. Nevertheless, in traditional circles, it is the views of the Ramban and the *Sefer ha-Hinukh* that are generally cited in support of *Daas Torah*. See, for example, the many essays in *Ve-Zarah ha-Shemesh* (above, n. 28). These essays, unfortunately, do not address the many problems involved in using the Ramban and the *Sefer ha-Hinukh* as precedents for the concept of *Daas Torah*. But, then, most of these essays originated as addresses delivered at the various founding conventions and conclaves of *Degel ha-Torah*. One, in all fairness, ought not, then, to expect too much of essays which, to begin with, were primarily intended to serve as theological-political pep talks.

sources and is a problematic extension of even the sources it relies upon is equally clear.

Let us turn to the second traditional source cited in support of *Daas Torah*, namely, *Eminat Hakhamim*. Here it is possible to be briefer.⁷³

The term *Eminat Hakhamim* appears only once in rabbinic literature, in *Perek Kinyan Torah of Avot*. It would seem to be more of an aggadic concept than a halakhic concept and its meaning is very obscure. To base, then, the ideology of *Daas Torah* on *Eminat Hakhamim* amounts to what Schopenhauer—fairly or unfairly—said about the ontological argument: It amounts to smuggling an idea into a particular concept and then proceeding to discover it therein.

First, it is not even clear if *Eminat Hakhamim* means “faith in the Sages.” Already the Midrash Shmuel, in one of his explanations, suggests that *Eminat Hakhamim* means the “faith of the Sages,” that is, a faith based on tradition passed down through the generations going back to Moses. A similar explanation has been offered independently by Rabbi Norman Lamm, who notes that the term used is *Eminat Hakhamim*, not *Eminah be-Hakhamim*. For Rabbi Lamm, *Eminat Hakhamim* means “a wise man’s faith,” that is “a sophisticated faith as opposed to a primitive, naive, simplistic faith.” An even more innovative explanation along similar lines has been set forth by Professor Eliezer Goldman, who suggests translating *Eminat Hakhamim* as the “faithfulness of the Sages” or “trustworthiness of the Sages.”⁷⁴

⁷³For my discussion of *Eminat Hakhamim* I am greatly indebted to written comments on the original draft of this chapter which Rabbi Norman Lamm kindly made available to me. All my references to Rabbi Lamm are to those comments. On the subject in general, see Simha Friedman, “Eminat Hakhamim be-Mishor ha-Hevrat u-be-Baayot Tabbur—Atgar Raayoni o Hanhagah Operativit,” in *Seter ha-Zikkaron le-Mordecai Veizer* (Kevutzat Yavneh, 1981), 136–59.

⁷⁴I remember coming across this explanation in one of Professor Goldman’s essays but have not been able to locate the exact source.

Even if we accept the traditional explanation that *Eminat Hakhamim* means “faith in the Sages,” the precise import of the term is still obscure. Many commentators take it to be referring to the acceptance of the fundamental authority of the Sages of the Mishnah and *Gemara* in the realm of *Torah she-be’al peh*, “so that one should not act like a Sadducee.”⁷⁵ An explanation that approaches the notion of *Daas Torah* is that suggested by the Meiri. “*Eminat Hakhamim*: that is to say that one should believe the Sages of the

⁷⁵See, for example, *Mahzor Vitri* and Maharal, *Derekh Hazyim*. (For further discussion of the Maharal’s view, see Piekarz, *Hasidut Poln*, 84.) Rabbi Lamm elaborates: “What *Eminat Hakhamim* means, therefore, is that *Torah* is ‘acquired’ if there is an implicit faith that the *masorah* of the *Hakhamim*—the tradition as handed down by the Tannaim and Amoraim—is legitimate and uncorrupted . . . and, therefore, of an obligatory character upon all of Israel.”

It should be noted that many commentators, R. Yitzhak Abohab, for example, understand *Eminat Hakhamim* to include the authority of the Sages in matters of *aggadah*. See the references in Friedman, “*Eminat Hakhamim*,” 4–7. But, of course, the authority of the sages in the realm of *aggadah* is a subject of serious debate among *Rishonim* and *Aharonim*. For the views and a representative sample of *Rishonim* who deny the authority of the sages in this realm, see Friedman, “*Eminat Hakhamim*,” 15–25; and Marc Saperstein, *Decoding the Rabbis* (Cambridge, MA: Harvard University Press, 1980), chap. 1. To their lists we must now, in light of recent scholarship, unequivocally add the Ramban. See Bernard Septimus, “Open Rebuke and Concealed Love: Nahmanides and the Andalusian Tradition,” in *Rabbi Moses Nahmanides (Ramban): Explorations in his Religious and Literary Virtuosity*, ed. Isadore Twersky (Cambridge, MA: Harvard University Press, 1983), 17–22; and Marvin Fox, “Nahmanides on the Status of Aggadah: Perspectives on the Disputation at Barcelona, 1263,” *Journal of Jewish Studies* 40:1 (1989): 95–109. For *Aharonim*, see above, n. 36. To Rav Hirsch and Rav Hoffman, mentioned in that note, we also ought to add the Maharitz Hayyot. See his *Mavo ha-Talmud*, chaps. 17–32. In any event, the question of the authority of the sages in matters of *aggadah* is not quite the same as the question of *Daas Torah*, though the two issues are obviously related.

Torah in whatever they say, even in matters which one's intellect does not grasp." Of course, this refers to a person who does not grasp or understand what the sages are saying, someone who is in the process of *acquiring* Torah. It does not refer to an obligation on the part of a knowledgeable rabbi to suppress his own considered view of a matter in obedience to the supposed *Daas Torah* of *Gedolim*. This may be how Rabbi Bernard Weinberger understands *Eminent Hakhamim*, but his interpretation should by no means be confused with that of the Meiri. Interestingly enough, when the greatest rabbinic scholar of the Meiri's day, the Rashba, issued a ban against the study of philosophy by anyone under the age of 25, the Meiri did not submit himself to the "*Daas Torah*" of the Rashba, but opposed the ban openly and forthrightly.⁷⁶ For that matter, the Rashba himself did not appeal to any notion of *Daas Torah*, but issued the ban in the name of and as the rabbinic head of the Jewish community of Barcelona, and the ban was signed by both the rabbinic and lay leaders of the community.⁷⁷

As has been suggested by Gershon Bacon,⁷⁸ Norman Lamm, and above all, Mendel Piekartz,⁷⁹ the concept of *Eminent Hakhamim* and above all, Mendel Piekartz,⁷⁹ the concept of *Eminent Hakhamim* and above all, Mendel Piekartz,⁷⁹ the concept of *Eminent Hakhamim* becomes central in hasidic ideology where, shifted away from the traditional ray, it becomes transmuted into belief in the *tzaddik*. The *tzaddik*'s word governs all the affairs of the community and all the personal affairs of the members of the community, and belief in

⁷⁶See the letter of the Meiri to R. Abba Mari of Lunel in Simon B. Joseph's "Hoshen Mishpat" published by David Kaufmann in *Jahrbuch zum Neunzigsten Geburtstag des Dr. L. Zuntz* (Berlin, 1884), 150-72. (Significant excerpts from the Meiri's letter may be found in B.Z. Dinur, *Yisrael ha-Golah*, vol. 2, bk. 4 [Jerusalem: Dvir, 1969], 259-61.)

⁷⁷See *Responsa of the Rashba*, vol. 1, nos. 515-517; for an annotated, critical edition of these three responsa, see chaps. 99-101 of *Sefer Minhag Kenot* by R. Abba Mari of Lunel, in *Teshuvot ha-Rashba*, pt. 1, vol. 2, ed. Hayyim Z. Dimitrovsky (Jerusalem: Mossad ha-Rav Kook, 1990), 722-38.

⁷⁸See Bacon, *Agudath Israel in Poland*, 59-60; "Daat Torah ve-Havleat Mashiah," 502-3.

⁷⁹Piekartz, *Hasidut Polin*, 81-83.

the *tzaddik* is a religious value per se. In the twentieth century the roles of the Lithuanian rav and, even more so, the Lithuanian *rosh yeshiva*, perhaps as a result of the breakdown of the traditional Jewish community, begin to resemble those of the hasidic rebbes, and belief in the *tzaddik*, suitably modified and now projected onto both rav and, again, even more so, *rosh yeshiva*, appears in the garb of *Daas Torah*.⁸⁰ However, the mitnagdic proponents of *Daas Torah* have concealed its immediate origins in the hasidic concept of the *tzaddik* and instead have directly linked it with the notion of *Eminent Hakhamim*.⁸¹ Once again, it need not be said that this

⁸⁰The connection between the breakdown of traditional communal structures and the rise of a quasi-hasidic notion of *Eminent Hakhamim* in mitnagdic circles comes to light, interestingly enough, in the following statement of Rabbi Yosef Avraham Wolf in "Le-Kayeym Nefesh Ahat mi-Yisrael," in *Ha-Tekufah u-Baayotah*, 10. "In a generation in which the structure of the holy communities with their rabbis at their head is no longer to be found . . . we have no support except *Eminent Hakhamim*. And in matters of healing as well, we teach that any matter of healing, be it healing of the soul or of the body, should be decided by the righteous sages that God has planted in our generation. And many sick people have been saved solely as a result of the counsel of the sages. They advise who is the proper doctor, what is the proper hospital . . . and, above all, their blessings and prayers have saved many."

⁸¹Another possible source for the notion of *Daas Torah* may be the *Musar* movement. See above, n. 6, for Rav Yisrael Salanter's view on *Daas Torah*. Of particular interest is a statement attributed to Rav Natan Tzevi Finkel, the Alter of Slobodka, that a view of a *Rishon* prefaced by *nirah li* (it appears to me) carries more weight than a view of his grounded in an earlier source. For while the latter rests or falls on that one specific proof-text, the *nirah li* is supported by the entire vast Torah knowledge and Torah personality of that *Rishon*. Recently, Tamar Ross, in an important essay, "Tenuat ha-Musar ve-ha-Baayah ha-Hermeneutit be-Talmud Torah," *Tarbiz* 59 (1989-90): 191-214, has linked the use of the notion of *Daas Torah* in the writings of several major *Musar* figures, most prominently R. Joseph Bloch, to their attempted solutions to the problem of how to overcome the distortions of personal bias in the study of Torah

“strong” reading (or, better, creative misreading) of *Emunat Hakhamim* fits in perfectly with the ethic of submission of the rejectionist Orthodox. And, also once again, we see that the attempt to ground the ideology of *Daas Torah* in traditional sources is, perhaps, a bit more problematic than Rav Dessler and other proponents of that ideology would have us believe.⁸²

We therefore feel justified in concluding this section with the clear-cut and definitive pronouncement of the noted rabbinic scholar, Professor Ephraim Urbach. “*Daas Torah* ideology has never been based upon authoritative halakhic sources, and, as far as I know, recourse has never been made to it in halakhic debate.”⁸³

While avoiding the opposite hazards posed by academic detachment. In Ross’s analysis, it turns out that the notion of *Daas Torah* is a key element in these *Misaviv* figures developing a hermeneutical approach to Torah that is both traditionalist and, at the same time, creative and relative. See n. 84, below.

⁸²Another statement that has been cited in support of the ideology of *Daas Torah* is the comment of the Ramban in his *Hiddushim on Baba Batra* 12a, s.v. *Miyom she-harav*. Compare *Derashot ha-Ran*, no. 12 (214). However, as Rabbi Shubert Spero has shown, the Ramban’s statement cannot be made to bear this weight. See Shubert Spero, “*Daas Torah*,” 18–19. In general, one may say that the major thrust of traditional rabbinic scholarship and doctrine, from the *Derashot ha-Ran* through the justifiably famous preface to the *Ketzot Ha-Hoshen* down to Rav Moshe Feinstein’s impressive preface to *Iggerot Mosheh*, is that scholars study and decide matters of law, not with any superhuman powers, but with their very fallible human intellects (*sekhel emoshi*). [For a somewhat different emphasis, see *Responsa of the Hatam Sofer*, vol. 1 (*Orah Hayyim*), no. 208.] Of course, precisely this grave and daunting responsibility resting upon the shoulders of the scholar-*posek*, the charge of interpreting and applying the revealed word of God with one’s own limited human abilities—the demands of him, as Rav Moshe emphasizes, the utmost in both piety and intellectual rigor.

⁸³“The History of Polish Jews after World War I as Reflected in the Traditional Literature,” in *The Jews in Poland Between Two World Wars*,

THE OUTLOOK FOR DAAS TORAH

What of *Daas Torah* today? And what of its future prospects? I would argue that the ideology of *Daas Torah* today may, at least in part, be a victim of its own success and, more important, a victim of the success of traditional Orthodoxy.

What has been observed in recent years is the emergence of multiple and conflicting claims made by various competing groups and factions and their leaders within traditional Orthodoxy to be the possessors of true *Daas Torah*. Such a development, however, renders the notion that a *Daas Torah* viewpoint on a particular issue is the sole legitimate Torah viewpoint on that issue both tenuous and implausible.

Yisrael Gurman et al. (Hanover, NH: University Press of New England, 1989), 229.

One apparently strictly halakhic subject where the notion of *Daas Torah* was invoked was the question of the permissibility of machine *matzot*. Both Rav Henoch Levin and Rav Tzevi Frommer defended the prohibition imposed on machine *matzot* by Rav Shlomo Kluger, the Sochaczewer Rebbe and others on the basis of *Daas Torah*. See Piekartz, *Hasidat Polin*, 94–96. It is exceptionally significant, however, that both Rabbis Levin and Frommer invoke the concept of *Daas Torah* not in their halakhic *teshuvot*, but rather in *derashot* they delivered on *Shabbat ha-Gadol*, in other words, in an aggadic context. Indeed, there is a striking contrast between the posture of extreme self abnegation assumed by Rav Frommer in his discussion of *Daas Torah* in his *derashah* (see above, n. 70) and the spirit of respect balanced with critical independence manifested in his *teshuvot*. Thus, as Professor Urbach has noted (241–42), Rav Frommer in *Responsa Eretz ha-Tzevi*, no. 103, takes issue—of course in a highly respectful manner—with the view of his own teacher, the Sochaczewer Rebbe, on the important issue of the inheritance of the post of rabbi. We can have no better example of the radical difference between the spirit of servility underlying the whole notion of *Daas Torah* and the spirit of critical independence and debate animating the realm of halakhic *pesaki*.

There would seem to be at least two reasons for the proliferation of clashing *Daas Torah* viewpoints and pronouncements.

First. The last few years have seen, particularly in Israel, mounting dissension among the various groups making up the traditionalist Orthodox (*haredi*) community. Of course, one can offer all types of specific and local reasons for the emergence of this often vicious feuding and internecine conflict. Without discounting particular triggers, I would argue that, in large measure, this fission and fragmentation should be seen as a result of traditionalist and Orthodox's success and its new-found sense of triumphalism. Of course, there have always been divisions and tensions among the various camps comprising traditionalist Orthodoxy. However, when traditionalist Orthodoxy felt beset by the onslaught of modernity, when it was on the defensive and fighting what often seemed to be a rearguard holding action, all camps felt the need to band together, at least to a certain extent. Today, the traditionalist Orthodox—and with good reason—feel that the crisis is over, not only that the dire threat posed by modernity to their community has passed but that they have emerged victorious from their encounter, their battle with the modern world. This being the case, the external pressure has dissipated and the natural internal divisions reappear. What follows from this is that, given the popularity of *Daas Torah*, each warring traditionalist group, not surprisingly, invokes *Daas Torah* on behalf of its own position and against the positions of its rivals.

Second. Generally, as I have argued, the *Daas Torah* viewpoint on any given issue was that viewpoint which took a more rejectionist stance toward modernity and its values. Until recently, it was a fairly simple matter to identify this viewpoint. Whether the issue at hand turned on cooperation with the non-Orthodox, secular studies, or Zionism, to name but a few examples, the more rejectionist and, consequently, the supposedly more “*frum*” viewpoint was easy to determine. However, now *Daas Torah* is being invoked on both sides of a new issue, the question of the return of the territories, where such a determination becomes immeasurably more difficult.

For, pray tell, which is the more “modern” and less “*frum*” position and which the less “modern” and more “*frum*” position on the question of the territories: the “dovish” *Daas Torah* viewpoint of Rav Shach and his followers or the “hawkish” *Daas Torah* viewpoint expressed by various hasidic leaders? For, in truth, each side can and does—with some justification—claim that its position is the more “traditional,” the more *frum*, the less—heaven forbid!—modern one, and, hence, that its position should be seen as an expression of “true” *Daas Torah*. For the firm adherent of any one of these groups there is, of course, no problem. But what is the bewildered onlooker to make of it all?

Thus, as a result of the proliferation of conflicting *Daas Torah* viewpoints, of conflicting *Deot Torah*, if we may coin a phrase, the concept of *Daas Torah* as the expression of the sole legitimate, authentic Torah viewpoint would seem to be in trouble. Nevertheless, it would be premature to predict an early demise for *Daas Torah*, or, indeed, any demise at all. For *Daas Torah*, as we have seen, is, before anything else, the quintessential expression of the traditionalist Orthodox ethic of submission. And this ethic continues to thrive and flourish in all circles of traditionalist Orthodoxy. Thus, the continued strength and vigor of this ethic make it likely that *gedolim* will continue to issue *Daas Torah* pronouncements and that demands to submit to the superior wisdom and insight of these *gedolim*, and thereby demonstrate true *Eminat Hakhamin*, will continue to be made, and, more important, will continue to be heeded. The career of *Daas Torah*, therefore, despite all its problems, is by no means over.

I have not, in this discussion, set forth what I consider to be the correct view (or views) of rabbinic authority, particularly as it bears on issues of communal policy. It is clear from what I have said that I consider the concept of *Daas Torah* to be highly problematic. I would like to make it equally clear that I believe that rabbinic authorities ought to play an important role in matters of communal policy. But I am not ready to provide answers to such questions as the exact nature of their authority or the proper relationship

between rabbinic and lay leadership. My own tentative impression is that a thorough historical and halakhic study will reveal that there were different, oftentimes conflicting, notions of rabbinic authority in force in different communities and eras, and that the picture that will emerge will be a very rich and complex one. Certainly, it is beyond the scope of this chapter to even begin to sketch such a picture.

If, then, this discussion ends on a note of incompleteness, I can only say, on my behalf, that it is always easier to be a critic than to offer positive alternatives. Of course, it is oftentimes very important to be just such a critic.⁸⁴

⁸⁴Just as I had completed this chapter and was about to send it to the editor of this volume, I came across Mendel Piekartz's recently published and very important work, *Hasidut Polin* (see n. 6, above). In it, Piekartz clearly shows that the concept of *Daas Torah* originated in hasidic circles in the late nineteenth century in response to the decline of tradition and the rise of secularism in Jewish life. In light of this study, I now suspect that I followed Bacon too closely in situating the development of the concept of *Daas Torah* within the context of the history of Agudas Yisrael and its rise as a political party. Considered together, Piekartz's discussion of hasidic theology, Bacon's treatment of agudist ideology, Ross's analysis of musarist hermeneutics (see n. 81, above), and the *harvati* placards in *Torat Rebbe Anram* seem to tell the following story. *Daas Torah*, in its modern sense, originated in hasidic circles in the late nineteenth century. It soon spread to mitnagdic circles, taking root first in the extremist *harvati* community of Jerusalem (see n. 15). Gradually it entered the more mainstream separatist Orthodox circles of Agudas Yisrael, beginning in the interwar period, but only coming fully into its own and achieving complete dominance in the postwar era. (The *Musar* movement appears to have played a secondary and supporting role in this entire process.) Perhaps, then, the success of *Daas Torah* within the mitnagdic "yeshivah" world should be seen as one example among many of the "Hasidicization" of that world.

While Piekartz's study, then, requires modification of my historical overview, fundamentally it only reinforces my central contention that the concept of *Daas Torah* is first and foremost an expression of the ethic of

submission. See especially in this regard his chap. 3, "Eminent Hakhamim and Absolute Obedience to *Daas Torah*," in which it becomes clear that *Daas Torah* is viewed, in hasidic sources, as a reenactment of the *Akedah*, whereby the individual sacrifices his intellect on the altar of blind obedience to the words of the sages (see also chap. 2). The one weak spot in Piekartz is his discussion of the classical roots of the concept of *Daas Torah*. Unfortunately, quoting only very selectively from the Ramban's *Commentary on the Torah* and thus ignoring, among other important discussions, the Ramban's significant comments in *Sefer ha-Mitzvot*, Piekartz misleadingly gives us to understand that *Daas Torah* is well grounded in traditional sources.

One final general point. While Piekartz, Bacon, and Ross focus on different ideological processes and movements in their accounts of the development of the notion of *Daas Torah*, their accounts are more complementary than contradictory, inasmuch as they share one critical element in common. For in all three accounts the notion of *Daas Torah* arises as a response to the varying challenges that the modern world poses to the authority of the rabbinic tradition. In Piekartz's account, the concept of *Daas Torah* is put forward as part of the hasidic attempt to affirm the essential heteronomy of the halakhic tradition in light of the dangers that the modern emphasis on autonomy poses to the binding authority of rabbinic law. In Bacon's account, the concept of *Daas Torah* emerges as part of the attempt to bolster the political and communal authority of the spokesmen of the rabbinic tradition in light of the ideological and political challenges posed to those spokesmen by secular Jewish movements and parties. Finally, in Ross' account, *Daas Torah* serves as a key element in developing an approach to the study of Torah that would guarantee the validity of traditional rabbinic interpretation of the law in light of the skeptical challenge posed by the hermeneutic revolution. Precisely these manifold challenges to the authority of the rabbinic tradition, then, led many of the defenders and exponents of that tradition to make extreme and far-reaching theoretical claims on its behalf and, even more important, on their own behalf as the authorized representatives of that tradition. In sociological terms: "Status anxiety . . . increases the assertiveness of status claims" (*International Encyclopedia of the Social Sciences*, vol. 15 [1968], 253). See my essay, "Rabbi Isaac Hutner's 'Daas Torah': Perspective on the Holocaust," 248 n. 5.

A HISTORICAL EPILOGUE⁸⁵

On January 17, 1944, the Belzer Rebbe, Rav Aaron Rokeah, together with his brother Rav Mordecai—after having escaped in May 1943, from the ghetto of Bochnia in Western Galicia to Hungary—left Budapest for the land of Israel, using immigration certificates reserved for veteran Zionists. One day earlier, Rav Mordecai, “with the approval and as the agent of his brother,” delivered a major farewell sermon “in the great hall of the *Kahal Yerein* of Budapest,” in the presence of “a large audience of thousands of Jews together with great rabbinic scholars and the leaders and prominent men of the city and country.” This sermon was printed as a special brochure, *ha-Derekh*, on February 7, 1944, and was reprinted about a month later, “since the first printing has sold out in a few days and from all camps and quarters requests are forthcoming for *ha-Derekh*.” At about the same time as the second printing, an abridged version of the sermon was published under the title *Matzmiach Yeshuah* (*The Flowering of Redemption*), for as the publisher stated, “Its content befits its name, for this entire farewell address is filled with promises for the future and encouragement for the present. . . . And we, believers the children of believers, are certain that the promises of the *tzaddik*, the *gadol ha-dor* [the Belzer Rebbe], will be fulfilled for us; and certainly it has been revealed to him from heaven that the end of our troubles is nigh.”

In the sermon, Rav Mordecai deals with the concern raised by “many people of weak hope and faith” that the Nazi destruction of Polish and Galician Jewry as well as the Jewry of other lands

⁸⁵All the primary sources cited in the epilogue are taken from the last chapter of Piekartz, *Hasidat Polin*, 373–434. We have, however, retold this harrowing story in our own way and for our own purposes. For an important recent study that partially overlaps with Piekartz, see Menahem Friedman, “The Haredim and the Holocaust,” *Jensalem Quarterly* 53 (Winter 1990): 86–115. Friedman’s article, among other things, clearly delineates the various stages in the historical development and emergence of the current “official” *Daas Torah* view regarding the Holocaust.

disproved the anti-Zionist policies of the hasidic and nonhasidic separatist Orthodox leaders and proved the Zionists to be correct. “For had our leaders, the *Gedolei Yisrael* and *tzaddikhei ha-dor*, adopted another approach, and had they anticipated the evil times that have befallen the world and taken care for the future and survival of the nation *as did others*, and had they occupied themselves with its salvation, then certainly many would have been spared extinction and the sword of the destroyer.”

Rav Mordecai admits that on the surface this argument would seem to be borne out by the historical events. However, he claims, it is precisely this apparent substantiation of the Zionist argument that is, in truth, a divine trial sent by God to test the faith of the believer. For, historically, there have been two types of Jewish leadership: the true leadership of the *Gedolei Yisrael* and *tzaddikhei ha-dor* and the false leadership of the “priests of Baal,” its present incarnation being the secular [and religious?] Zionist leaders. To criticize, then, in any way, the wisdom or policies of the true leaders and to imply that the false leaders, on a particular issue, may have been more farseeing, is to side with the priests of Baal and to desecrate the sancta of Israel. Rav Mordecai, therefore, condemns those heretics and even those who are “simply led astray,” all of whom “criticize the *tzaddikhei ha-dor* in a time of trouble.” Rather, “we have naught to do but rely on our Father in heaven and to strengthen our belief in Him, may He be blessed, and our belief in the *tzaddikim*.”

In this part of the sermon, then, Rav Mordecai, as Rav Dessler would do at a later date, used the doctrine of *Daas Torah*—in his case a hasidic version of the doctrine—to defend the *Gedolim* and *tzaddikim* against the accusation that, as a result of their anti-Zionist policies, they had not done enough to encourage Jewish emigration from Europe to the land of Israel.

Of particular interest, however, is the next part of Rav Mordecai’s sermon, the part containing “the promises of the *tzaddik*” to which the publisher of *Matzmiach Yeshuah* referred. Here, in a passage of twenty-two lines, a passage which because of its impor-

tance appeared in the second printing in boldface, Rav Mordecai responds to the accusation that he and his brother were abandoning their flock in a time of trouble. Already in October 1943, Rav Yissacher Teichel, writing in Budapest, described in his work *Eyn ha-Barim Semehah* "the fear and dread that hangs over us when all the *Admorim* of our country are attempting to flee to the land of Israel for fear of the danger of the oppressor; and they do not take into account the fact that by so acting they are causing the spirits of the Jews to sink, when they hear the multitude murmuring: 'The Rebbes are fleeing and what will be with us?'"

This is how Rav Mordacai responded:

I wish to inform and enlighten you concerning the murmurings of many who are afraid and seized with trembling and . . . worried about the future. They are saying that perhaps, heaven forbid, some danger is hanging over the land and that my brother, the *tzaddik* of the generation, Shlir^a sees the future and for that reason is traveling to the land of Israel, for it is there that God ordained the blessing, "And I will give peace in the land" [Leviticus 26:6]. He, therefore, is going to a place of rest and tranquility and has left us, heaven forbid, to sorrow. What will be our end? Who will protect us? Who will save us? Who will pray for us and intercede on our behalf? Therefore, it is my obligation to let you know, my dear colleagues, sages of Hungary, the truth, that whoever is close to and a member of the circle of my brother . . . Shlir^a knows for certain that he is not going in flight or running away in haste, as if he wished to flee from here. Rather his entire longing and desire are to ascend to the holy land, which is sanctified with ten levels of holiness. And I know that for a long time he has been yearning greatly for the land of Israel. His heart's desire and the yearning of his holy soul are to ascend to the city of God, there to arouse [God's] mercy and grace on the entire community that they should know no more sorrow, and the remaining camp will be spared, and soon there will be fulfilled, "I will cut off the horns of the

wicked, but the horns of the righteous will be exalted" [Psalms 75:11]. And this is alluded to in the verse, "And he saw the resting place that it was good and the land that it was delightful" [Genesis 49:15]. It would seem that the intention [of the verse] is, "And he saw the resting place" [*menuchah*], the *tzaddik* sees that rest and tranquility will descend upon the inhabitants of this land [i.e., Hungary], "that it was good" [*ki tov*], that the *tzaddik* sees that good, and all good, and only good and grace [*ki tov, ve-kol tov, ve-dikh tov ve-hesed*] will befall our Jewish brethren, the inhabitants of this land [i.e., Hungary], "and the land," the reason why the *tzaddik* desires to ascend to and settle in the land is "for it is delightful," for it is there that the supernal delight dwells.

On March 19, 1944, just over two months after the farewell sermon in which the *tzaddik* had foreseen that "good, and all good, and only good . . . will befall our Jewish brethren, the inhabitants of this land," and one month after the abridged version of the sermon, *Matzmiyah Yeshuah*, was printed, one month after the publisher of the abridged version stated, "We, believers the children of believers, are certain that the promises of the *tzaddik* and *gadol ha-dor* will be fulfilled for us," the Germans occupied Hungary. On May 14, less than four months after the farewell sermon, the mass deportations of Hungarian Jews to the extermination camps began. Toward the end of May, Rebbeztzin Hayya Halberstam, the widow of Rav Avraham Halberstam, the Admor of Stropkov, was deported from Kashau to Auschwitz. There she and her son were murdered on May 25. Shortly before her death, a SonderKommando, who himself later perished, recorded her last words.

I see the end of Hungarian Jewry. The government had permitted large sections of the Jewish community to flee. The people asked the advice of the *Admorim* and they always reassured them. The Belzer Rebbe said that Hungary would only endure anxiety. And now the bitter hour has come, when the Jews can no longer save themselves. Indeed, heaven

concealed [this fate] from them, but they, themselves, fled at the last moment to the land of Israel. They saved their own lives but left the people as sheep for slaughter. *Ribbomo shel olam!* In the last moments of my life I set my plea before You that You pardon them for this great *hillul ha-shem*.

In 1967, two hasidic writers, Rabbis Bezalel Landau and Nathan Ortner, in their book *ha-rav ha-kadosh Mi-Belz*, reprinted the entire farewell sermon of Rav Mordecai, with the exception of this *entire twenty-two-line passage*. In place of this passage, they included the following comment. "Here the Gaon and Tzaddik, the Rav of Bilgoray [Rav Mordecai], explained the desire of his brother, the holy Gaon, to ascend to the land of Israel, based on the verse, 'And he saw the resting place that it was good and the land that it was delightful.'"

This convenient omission has allowed the "authorized" hasidic historians of the Belzer dynasty to write how the Rebbe and his brother "on more than one occasion warned the Jews of Hungary not to deceive themselves with illusions and not to be at ease regarding their situation. The Polish experience demonstrated that the Nazi horror was just as dangerous in its time of downfall as it was in its time of triumph." Indeed, on one occasion Rav Mordecai, according to one hasidic historian, even warned a delegation representing a Hungarian Orthodox community: "Know that the Germans are right behind us and any day we must be afraid of a German invasion." However, this historian continues, "The Jews of Hungary did not wish to understand and refused to engage in an accounting of their future."

Indeed, the career of *Das Torah* is by no means over.