

## **A brief report from “Defining Tradition”, the 5th CMTL Rabbi’s and Educator’s conference**

This past Monday and Tuesday, CMTL hosted “Defining Tradition”, featuring shiurim, lectures, and presentations by Rabbi Hayyim Angel, Yoetzet Halacha Atara Eis, Rabbi Chaim Jachter, Mrs. Deborah Klapper, Rabbi Dovid Maayan, Rabbi Francis Nataf, Professor Chaim Saiman, Rabbi Dr. Meir Sendor, Rabbi Moshe Simkovich, Dr. Richard Wagner, Mr. Aron and Mrs. Ariel Wolgel, as well as myself. The conversation was intellectually robust, deeply honest, and emotionally challenging, and concluded with a round of powerful personal statements by the participants. We look forward to making the edited proceedings of the conference available in the future, but in the interim, I offer some reflections, with the disclaimers that they reflect a personal and short-term perspective, and that I am of necessity leaving out or giving short shrift to many powerful moments, statements, and presentations. All errors are my responsibility.

Here are two axes along which the notion of Masoret can develop. One seeks its authenticity in Revelation, and claims that a particular position or practice is justified so long as it can be rooted in a text seen as stemming from that Revelation. One clear example of this is the inclusion of the creative Biblical interpretations of the “peshat” school in the Masoret. The second identifies authenticity with continuity, and justifies positions or practices because they are organic continuations of what came before them. This is what Dr. Haim Soloveitchik famously called “mimetic Judaism”, and saw as giving way to a text-based culture, so that, as Rabbi Jachter noted, people are no longer willing to use their grandparents’ standards for bug-checking vegetables.

Text-centered cultures, however conservative in ideology, are often revolutionary in practice, as they can sweep away even millennia of accrued habits of mind, heart and body in the name of interpretational fidelity. This disjunction between preservationist theory and radically new practice can lead to what we collectively came to term “a tyvah and a cheishek” for masoret, a desire – which can be both positive and negative – to see oneself as traditional. But how can this be done?

Rabbi Nataf showed us one example in Rav Ovadiah Yosef’s campaign “to return the crown (of Sefardic Torah culture) to its former glory”, which has had the ironic effect of overriding particularist Sefardic cultures such as those of Iraq and Morocco, and Professor Saiman showed how American political conservatives rallied under the banner of “originalism”, and we discussed as well ArtScroll’s remarkably innovative Mesorah press. The common denominator seems to be a capacity to ignore the years intervening and see oneself as standing again at Yavneh, or Baghdad, or Philadelphia.

But Rav Ovadiah also shows us how personalities can forge themselves into links that span those years, so that everyone who follows them can walk safely on a bridge over chasms of decades or centuries.

How does all this relate to Modern Orthodoxy? My sense is that we felt that cheshek for masoret strongly, so that few of us were comfortable identifying Modern Orthodoxy as “unprecedented” but yet legitimate. Rather, we sought to ground Modern Orthodoxy either in texts or in Masoretic personalities such as the Rav, Rav Aharon Lichtenstein or even Rav Ovadiah among contemporaries/moderns, or the Rambam and Rav Saadia Gaon among medievals.

Each of these strategies can be problematic, however. Equating legitimacy with textual fidelity runs the risk of all process-oriented strategies of legitimization, namely that it leaves one unable to declare anything illegitimate on purely substantive grounds, no matter how much it sticks in one's craw. On the other hand, personality-based strategies can leave one frozen, unable to do anything that one's heroes did not specifically do.

Modern Orthodoxy faces both these problems. For its right-wing, the key problem is that the left wing, as well as the new attempts at non-Orthodox Halakhic Judaism, have greatly increased their level of Rabbinic scholarship and sophistication, so that formal arguments against their positions are no longer reliably and obviously dispositive. For its left wing, the problem is that their trajectory of innovation clearly carries them into waters at best uncharted by the Rav and Rav Lichtenstein, and at worst clearly declared off-limits. The left therefore prefers texts to personalities, whereas the right prefers personalities to texts. And for the left, there is some anxiety as to whether the right is really "Modern" rather than "left-wing charedi", and for the right, as to whether the left is really "Orthodox".

I think the left's concern is overdrawn. As Rabbi Jachter emphasized, the Modern Orthodox right includes passionate Religious Zionists who espouse the obligations of citizenship, the virtue of a degree of cultural integration, the meaningfulness and religious worth of Gentile intellectual and technological achievements, and the need to involve women in high-level Torah study in all fields of Torah. This commonality of values was also evident in Dr. Wagner's presentation of the curriculum and reality of Striar Hebrew Academy of Sharon. One can passionately disagree with or even lament many of their specific positions, but they are unmistakably modern. At the same time, there is a real risk that they will choose to ally themselves with the charedi world against the left, even if an objective observer would see this as instantiating Freud's comment about the narcissism of small differences.

The right's concern is I think misplaced as well. People who ask sh'ailot about taharat hamishpachah, eat glatt kosher, dress (at least the women) in highly tzanua clothing, and refuse to daven in egalitarian minyanim, are plainly Orthodox. But the risk here is that despair or impatience may cause them to ally with groups lacking halakhic integrity.

There is also the possibility that right and left will each simply try to go it alone. My own sense is that this will make each nonviable.

The left and right's competing rhetorics of masoret – text vs. personality – came into sharp focus when we discussed how to address the reality of what Dr. Soloveitchik called "rupture and reconstruction", meaning that very few of us pattern the details of our religiosity after our observation of our parents. Rabbi Jachter argued passionately that even though geographic minhag hamakom is for now practically extinct, we should nonetheless seek to pattern ourselves after the geographic minhagim of our pre-American or Israeli ancestors, or the specific minhagim of our teachers. He further cited Rav Lichtenstein as saying that minhag hamakom now applies to ideology rather than geography, so that one's choices should be constrained by the ideological community one identifies with, such as Modern Orthodoxy. The question then was how Modern Orthodoxy as a community should construct its

minhagim – Rabbi Jachter contended that it should look to behavioral precedents or to the authority of its gedolim, while others thought we should look anew at our texts.

Rabbi Dr. Sendor developed the topic of minhag hamakom through a series of fascinating teshuvot addressing conflicts of minhag in the aftermath of geographic dispersion. What emerged was that poskim sometimes supported mimesis, but also sometimes saw such conflicts as opportunities to direct halakhah against mimesis and toward what they felt was more compelling religious practice, and also sometimes were comfortable saying that the breakdown of a unified minhag leaves room for personal choice.

My own presentation sought to clarify the issue, and perhaps create some common ground, by investigating the formal halakhic roots of minhag. I noted that minhag hamakom was never binding on individuals, in the sense that they had the right to move, and a desire to change minhag was a perfectly legitimate rationale for moving. This creates even greater room for flexibility under Rav Lichtenstein's argument, as we can now shift minhagim even while staying in physical place, simply by changing our ideological identity.

I then noted that according to Zikhron Yosef, cited without critique in Pitchay Teshuvah YD 214:5, minhag avot, parental or ancestral custom, is never binding on individuals per se. Rather, individuals generally adopt their parent's practice, and thus over time it becomes binding in the form of neder/oath as do all personally adopted religious customs (unless one explicitly declares one's intent to be *beli neder*). So on a formal halakhic level, there is no reason that baalei teshuvah must adopt the customs of ancestors, and one can diverge from even strongly maintained ancestral custom through the mechanism of *hatarat nedarim*. The question is whether one *ought* to do so, and here sensibilities legitimately diverge.

Here I offered Professor Yosef Yerushalmi's distinction between "memory" and "history" as a model. Memory is what we believe precritically – it is constituent of our identity, so that we do not need objective evidence for its truth, only the evidence of our own experience (and we know that our experience is not infallible, but we find the error rate acceptable). What our families, and perhaps our communities, tell us about our past, in a healthy family, is treated as memory – it becomes part of who we are. History is what we believe critically, i.e. we believe it only on the basis of evidence that should convince anybody.

The halakhic analogue is whether we treat past custom and opinion as constituting our religious identity, and we therefore accept it without regard to whether it can be demonstrated from halakhic or hashkafic texts – or rather see ourselves as "people of the books", for whom the only given is that we must live in accordance with an honest interpretation of the texts of the tradition.

My suggestion was that for some, perhaps many, in Modern Orthodoxy, attaining that precritical belief is simply not possible – their awareness of diversity among their friends, that their halakhic commitment is more intense and complete than that of their parents, and that their communities have institutionalized practices, such as high-level women's Torah study, that had previously existed very much on the margins of Orthodoxy, all mean that they are ineluctably conscious

of the extent to which their personal practice is constructed, and so they can believe in its correctness only as a matter of history. Nonetheless, perhaps they can acknowledge that they wish their children to relate to it as memory, and toward that end, it is better when possible to make choices that their children can honestly perceive as extending back past them.

Of course, even this shared sensibility does not prevent substantive disagreements regarding specific practices – one can say that women’s tefillah groups, for example, are tragic errors even if one admits that they violate no technical norms, or that tolerating a prohibition against women driving, or instituting a rule against women teaching Talmud in coed schools, has unacceptable social consequences even if it can be grounded in traditional norms. The question is whether these disagreements are so severe as to preclude cooperation and alliance for the sake of shared values.

Here Professor Saiman’s presentation was directly on point. Using the Federalist Society’s successful campaign for conservative jurisprudence as a model, he argued that successful legal movements need high-powered intellects, deep-pocketed patrons with strategic vision, network entrepreneurs, and political entrepreneurs. Network entrepreneurs forge the bonds between and among intellects and patrons so that they become a movement, and political entrepreneurs then find ways for that movement to penetrate and eventually capture Establishment institutions.

Modern Orthodoxy has the intellects – on both the left and right – and sufficient potential patrons. What we so far lack are the network entrepreneurs to convince the intellectuals – here, for better or worse, I include myself - to see themselves as engaged in a joint enterprise, and to convince the patrons to enable and require this. We also lack the political entrepreneurs who can realistically enable us to compete together for influence in the broader Orthodox and Jewish academic and lay communities, rather than competing exclusively with each other for rosh yeshiva slots in YU, synagogue and educational posts, and the hearts of patrons.

The work is not upon us to complete – but neither are we free to desist from it.

Shabbat shalom

Aryeh Klapper