

## CENTER FOR MODERN TORAH LEADERSHIP

Center for Modern Torah Leadership



חרות ואחריות

www.TorahLeadership.org

"Taking Responsibility for Torah"

### WHAT MAKES TORAH LEADERSHIP POSSIBLE?

Rabbi Aryeh Klapper, Dean

When Yaakov feels his death approaching, he consciously recreates a scene from his grandfather Avraham's life. He calls in a man who seems to have his complete confidence, gives him detailed instructions related to geography, and insists that he swear, not just verbally but by means of an impressive physical gesture of commitment, to uphold those instructions.

If you have complete confidence in an agent, why make him swear to uphold your instructions?

One possibility is to convey how important the issue is to you. A second possibility is so that the agent can convey to others how important the issue is to you.

Each of these possibilities seems a reasonable explanation of both forefathers' actions. Avraham wants Eliezer to understand how important it is for Yitzchak to marry a woman from outside Canaan, and also to insulate him from any pressure to have the bride's family meet Yitzchak first. Yaakov wants Yosef to understand how important it is for him to be buried in Hebron, and also to arm him against any attempt by Pharaoh to 'suggest' that a state funeral in Egypt would be a greater honor.

Yet Chazal in each case there also seems a third possibility, which is an unstated and perhaps even unacknowledged undercurrent of mistrust and even resentment.

When Eliezer asks Avraham what to do if the woman will not follow him back – Is he reflecting his disappointment that Yitzchak won't marry his own daughter? Might he therefore have been less than wholehearted in his efforts to find a wife for Yitzchak in Charan?

When Yaakov demands to be buried in Hebron – does this remind Yosef of his own mother Rachel's wayside grave, while Leah sleeps eternally in the family crypt?

The fact is that Yosef at first resists taking the oath. He says merely "I will do as you have said", and swears only after Yaakov once again insists. Moreover, he never makes the physical gesture of commitment that Yaakov initially demands. Very likely it is for this reason that with his dying breath Yaakov commands *all* his sons to ensure his burial in Hebron, and that his very last words remind them that this will place him next to Leah.

These stories reflect the fundamental truth that trust and discretion are directly related. When you completely trust someone else, both their judgment and their motives, you give them goals and principles, not rules. Mistrust leads to rules.

This is why for most companies the first layer of customer service representatives cannot genuinely respond to anything about your specific case. They can only follow rigid scripts. You often have to reach multiple steps up the chain before speaking to anyone who can actually think about the case in terms of the corporation's goals and values, i.e. in terms of the purposes and intents of the rules rather than in terms of the rules themselves.

It should be clear that even at the highest level, the rules still play a role **as rules**, not just as resources that can be mined for information about goals and values. Even or especially the people responsible for making the rules need to abide by them. Customers need to know what they can reasonably expect when they buy a product. Workers need to have confidence that they

are not enforcing cruel caprices. Executives need to be accountable to each other and to their boards, and boardmembers to stakeholders. Arbitrary power is bad for everyone involved. The exercise of arbitrary power leads to being subject to someone else's arbitrary power, and the exercise of arbitrary power tends to corrupt absolutely.

So we need to distinguish as sharply as we can between arbitrary power and discretion.

All this applies directly to the realm of psak halakhah.

I think it is useful, and hopefully not trivializing, to think about halakhic authorities as the legal department of the Torah's customer service operation. This will also help us acknowledge and recognize that halakhic authority can reasonably be conceived of in hierarchical terms. Some authorities can only work from rigid scripts; some from a much more flexible set of instructions; and some can genuinely consider whether the case in front of them fits any of the existing rules.

We can also understand from our own experience that the best corporations are those which vest genuine discretion even in their first-line representatives. The more layers one has to go through before one can talk to "a human being", i.e. a person with the capacity to respond to your case in its individuality, the more frustrating and dehumanizing the experience.

The questions then are: What are the conditions necessary to build a halakhic system which maximizes discretion at every level of the system? How can we be transparent about the existence of discretion without creating the unreasonable and unsustainable expectation that every complaint will be resolved in the manner that the customer initially demands? How can we train halakhic authorities to exercise discretion without making them unaccountable to each other and to Torah, and without corrupting them? Make no mistake – arbitrary and unaccountable halakhic power is as corrupting as any other kind. Moreover, it tends to lead to a form of religious imperialism, in which halakhists conquer territory that might otherwise belong to other aspects of Judaism so as to expand the realm in which they can exercise their arbitrary and

unaccountable power. Such imperialism will ironically often be justified on the ground of the need to limit others' inappropriate use of halakhic discretion.

At Limmud UK this past Wednesday, I led a session titled "Should Torah Scholars have Authority?". Leading such a session was inherently paradoxical. I started by insisting that we move into a circle, rather than having me stand apart from an audience. I made other substantive and I think effective efforts to ensure that we had a genuine discussion in which all positions could be respectfully heard. But I don't deny having led, not merely facilitated. And I'm happy to report that I think we reached a consensus that we wanted to build a community in which Torah scholars had real, although certainly not arbitrary and unaccountable, authority. The problem was a fundamental lack of trust that Torah scholarship leads to better decisions, both in terms of the characters of the decisors and in terms of the ethical grounding of their decisions. This applied even to halakhic decisions in areas that have ethical implications.

This of course is not a problem limited to the UK. It is tempting to argue that it is – that after twenty one years, the Center for Modern Torah Leadership has accomplished all that needs to be done in the US, and all that needs to be done is to extend our reach. But that is far from the case.

I do believe, however, that we have made and are making a difference. I believe that our alumni have a better grasp of what needs to be done, and that they are creating a healthier environment for halakhah as community leaders and representative of Torah. I think it is reasonable to expect that their influence will grow as they grow.

It is vital that we support them – by creating opportunities and spaces for them to continue to learn with each other, by enlarging the community of alumni, by spreading the Center's Torah widely so that they find fertile ground for genuine halakhic leadership wherever they go. Our work is sustained only by your support, and therefore is fully accountable to you. Thank you very much for your confidence.