YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha in the Age of Social Media**

**Rav Jonathan Ziring**

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In loving memory of Rabbi Dr. Barrett (Chaim Dov) Broyde ztz"l

הוֹלֵךְ תָּמִים וּפֹעֵל צֶדֶק וְדֹבֵר אֱמֶת בִּלְבָבו

Steven Weiner & Lisa Wise

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**Shiur #07: *Mara De-atra,* Part II**

**The Recreation of the *Mara De-atra***

**From Geographic Authority to Ideological Identification**

[Last week](https://etzion.org.il/en/shiur-06-mara-de-atra-age-social-media-part-i-local-rabbi-globalized-world) we discussed how communications technology has led to the breakdown in classic models of halakhic authority that were based on location, specifically the *mara de-atra* (master of the place), the local rabbi. However, the nature of that breakdown has opened the doors to a replacement: the ideological *mara de-atra*.

We cited Dr. Aaron Kirschenbaum,[[1]](#footnote-1) who writes:

[T]he emergence of *rashei yeshiva* as halakhic decisors whose authority transcends geographic boundaries and, even more so, the walls of the individual yeshiva, has contributed much to the near demise of the traditional *mara de-atra*. Not only do their disciples (*talmidim*) turn to them; not only do the laity turn to them; but the communal rabbi, the local *mara de-atra* himself, as a former *talmid*, also turns to them for *pesak* and guidance. Indeed, the telephone has done much to undo the role and stature of the old-time *mara de-atra*.

However, as Dr. Kirschenbaum notes, rabbinic authority is still sought after. The difference is that people turn to those authorities with whom they have a relationship, or with whom they ideologically identify. Does Halakha invest the authority of *mara de-atra* in such a figure? As we will see, there is evidence that it does.

**Rashba: Communities Who Have Accepted Rif and Rambam**

The first authority to recognize this new kind of *mara de-atra* is Rashba (*Responsa* 1:253). He first highlights the extent to which the Talmud respects local authority and the right of constituents to follow their rabbi, even against the majority opinion:

In Rabbi Eliezer’s region, they would cut wood [on Shabbat] to make charcoal to make the knife [for circumcision], and the Sages did not protest as they were acting like their teacher (*Shabbat* 130a). And in the Chapter *Kol Ha-basar* (*Chullin,* Chapter 8, 116a) it says:

Levi visited the town of Yosef the Fowler. They served a head of fowl cooked in milk. He did not eat, and said nothing. When [Levi] returned to Rav, he said, "Why didn’t you excommunicate them?!" He replied, "That is the town of Rabbi Yehuda ben Beteira. I thought perhaps he expounds like Rabbi Yosei the Galilean's opinion, who says: ‘Poultry meat is excluded [from the prohibition of meat and milk] for it does not produce milk.’”

And so too in many cases.

However, he notes that in his time, people had begun to treat great authorities of the past with the same deference as they would their local rabbi:

In a similar way, people who have accustomed themselves based on one of the great authorities, [such as] the places where they act in all their actions based on the laws of Rif *z”l*, and the places where they always act based on Rambam’s code — they have made these great ones their teachers.

Rashba seems to accept this model: an ideological *mara de-atra*. However, he qualifies this and argues that while it is similar to the classic model, it is not identical. Assuming that a community has a rabbi, he can rule against the authority the community normally follows:

However, if there is a sage worthy of ruling, and he sees a proof to forbid what they permitted, he can forbid it, for this [deceased figure] is not actually their teacher, and if they were to act differently than their actual teacher in his place, it would be lessening the honor of their teacher in his place…

Thus, Rashba creates a category akin, though not identical to, *mara de-atra*. However, it should be noted that this does not get us all the way to the level of an individual who chooses to be part of an ideological community. The Talmud’s examples of *mara de-atra* are the leaders of communities. While Rashba does accept the possibility that the rabbi can be virtual rather than real, so to speak, he still discusses geographic communities in terms of who accepts said authority. While he begins to point in the direction Dr. Kirschenbaum mentions above, he does not actually discuss the possibility that both the rabbi and community may be defined by ideological identification rather than geography.

At any rate, the model created by Rashba is used by later Poskim to explain the emergence of Ashkenazic communities who follow the positions of Rav Moshe Isserles (Rema) and Sephardic communities who follow the positions of Rav Yosef Karo in *Shulchan Arukh*. [[2]](#footnote-2) Many Acharonim assume that this is an absolute obligation, as the world has accepted these two authorities for the two communities.

For example, Rav Yonatan Eybeschütz writes that any position not mentioned by Rav Yosef Karo or Rema need not be considered, as the sages of the generation have accepted to follow the pithy formulations of these two Poskim. He further states that God approved of this acceptance, and that while the Acharonim try to argue with these two authorities, their questions are never unsolvable.[[3]](#footnote-3)

However, in the original context, the communities who were accepting these rabbinic authorities were geographic. Ashkenazic Jews lived in certain parts of Europe[[4]](#footnote-4) and Sephardic Jews came from mostly the Middle East. Even under these circumstances, there were Poskim who felt that this pseudo *mara de-atra* could not allow following minority opinions to be lenient concerning biblical laws (*Responsa Mahari ben Lev* 1:75) Still, the majority of Poskim treat this category almost like *mara de-atra*, even when it allows leniency.

Shakh (*YD* 242:4) notes that a similar model has allowed people to have more than one “main teacher,” instead choosing different rabbis to rule on the areas of Halakha in which they have expertise. While he accepts this pragmatic division of the authority of the rabbi, he notes that one must avoid the danger of searching for the most lenient position under all circumstances.

In the twentieth century, Poskim begin to write extensively about “Ashkenazim” and “Sephardim” as ethnic groups who **originated** in particular geographic areas, though they no longer lived there. While there are indications that some people treated the terms in this way earlier,[[5]](#footnote-5) the phenomenon increased as the upheaval of the twentieth century brought many Jews from around the world to joint communities such as Israel and North America. At that point, Poskim begin to write about customs of *edot (*ethnic communities) as if they were geographic ones, applying the Talmudic rules from the latter to the former.[[6]](#footnote-6) While the exact justification for that is unclear, for our purposes it is sufficient to note that this tendency has been widespread among Poskim.[[7]](#footnote-7) [[8]](#footnote-8)

**Ideological Communities**

The next logical step is to argue that communities can be forged around ideological identification and halakhic authorities chosen accordingly. Rav Nathaniel Helfgot has summarized the more general position as it emerges from an expanded understanding of Rashba as follows:

This ruling of *Rashba* moves the concept beyond the limitations of specific time and place and makes the ideological and halakhic affiliation with a particular authority’s rulings at the center of the mandate.  One can plausibly extend this concept beyond the boundaries of any reference to geographic area as well. Once one claims that the concept of following the view of an individual scholar extends beyond his death or his actual place of domicile, the road is clear to an expansive reading of this notion. Thus, a Belzer Chasid who lives in Capetown, South Africa or a transplanted Washington Heights yekke who was a member of Kehillath Adath Jeshurun and was now living in San Jose could continue to follow the practices and psakim that they felt loyalty to, in their day to day life.[[9]](#footnote-9)[[10]](#footnote-10)

Rav Helfgot’s presentation was propounded by HaRav Aharon Lichtenstein before him to explain why the Modern Orthodox community needed and was able to find its ideological justification in the personality of Rav Joseph B. Soloveitchik:

The definition of the relevant community, however, is murky. The gemara speaks of locale, but it seems strange that geography should be the sole determinant. Would an enclave of Judean emigres in Galilee be permitted to eat chicken fried in butter? Would only residents of twelfth-century Egypt be entitled to rely upon the Rambam’s minority *kulot*? It seems far more likely that other factors – ethnic identity or, above all, spiritual and ideological fealty – should carry no less weight. I believe this is clearly suggested by the Rashba: In this vein, if they have been accustomed to act consistently in accordance with the Halakhot of the Rav Alfassi *z”l*, or, in places which have become accustomed to act consistently on the basis of the codex of the Rambam *z”l*, they have, in effect, established these *gedolim* as their *rebbe*. Physical proximity is obviously not intended here. What is envisioned is, evidently, rather, a principled and consistent attachment. Its basis is left open; the places cited could have come to be "accustomed to doing all their actions" in accordance with the dicta of the Rif or the Rambam as a result of either accident or choice. The point is, however, that spiritual commitment rather than geographic contiguity is the determinant factor. A Sephardi congregation in Warsaw could still be bound by the rulings of the *Rishon Le-tzion*. Would a Gerer chasid cease to be part of the Beth Israel's community just because he had moved to Paris?

The implications for a contemporary Orthodox Jew's legitimization of his response to modernity are self-evident. Were there no genuine *gadol* who had subscribed to the core halakhic positions of what is roughly denominated modern Orthodoxy, ordinary rabbis and laymen would be hard-put to cling to them. In the absence of an imprimatur from any Shofet ShebeYamecha whatsoever, it would be difficult, if not impossible, to justify adoption of norms and values in defiance of a wall-to-wall phalanx of *gedolei* Israel. Such action would simply be regarded as error, whether *bi’devar mishna* or *be’shikul ha-daat*. One's contemporary authority no doubt bases himself largely, and perhaps selectively, upon classical predecessors. But the ordinary person must base himself upon a Shofet ShebeYamecha. Even if we should assume that, at the personal level, a moderate *lamdan* may, and perhaps must, act in accordance with his own informed and conscientious reading of the sources—a dubious proposition in its own right—surely no such course could be championed in the public sphere. Who, however, imagines this to be the case? Only the ignorant and the arrogant. Even if we limit our purview to the confines of our own bailiwick, it is self-evident that, over the span of half a century, the imposing presence of our collective ray *muvhak*, *z”l*, was sufficient to refute this perception. No objective observer of the American Torah scene—or of the international scene, for that matter—can fail to acknowledge the Ray's position as one of the *gedolim* of this century, on the one hand, and his advocacy of the critical values of modern Orthodoxy, on the other.[[11]](#footnote-11)

What makes this notion so appealing and so practical is communications technology. Whether by telephone or email, accessing rabbinic counsel from anywhere in the world is simple. Now, people often receive guidance from halakhic websites they trust, such as the large group of women (and men) who rely on the halakhic positions of Nishmat’s [www.yoatzot.org](http://www.yoatzot.org). People buy the practical halakha guides from the community they feel a part of. And, more recently, people join Facebook and WhatsApp groups to gain halakhic advice from peers or teachers they identify with, whether or not they have ever met.

**Dangers**

However, relying on this type of *pesak* alone has dangers. Rav Yosef Eliyahu Henkin (*Ezrat Yisrael* #70) already warns against issuing halakhic rulings over the telephone, as it does not lend itself to a relationship between the *posek* and the person asking the question. This often leads to mistakes. While this fear is not accepted by most and may be ameliorated when communications technology is used to reach authorities with whom one is close, the more anonymous modes of receiving halakhic guidance do often fail on this plain.

As Shakh noted above, once one has access to many authorities, one must still have integrity and follow the position dictated by his commitments. This insight is particularly poignant in the context of virtual ideological communities. It is too easy to remain part of a community with a set of halakhic leaders until a single position or issue that is at odds with one’s desire. While virtual communities may not be able to apply social pressure the way geographic communities can (though in some cases they can apply more), individuals must maintain their own standards. If they indeed have accepted a group of Poskim as their ideological *marei de-atra*, they should not jump ship every time they receive an answer that is not to their liking.

Rav Shlomo Brody has also noted that the same dynamics that have allowed *pesak* to travel so freely carry a downside from the perspective of the *posek*. Traditionally, Poskim could feel comfortable issuing rulings for individuals, without assuming that every word they said would become globally known. However, every *posek* now knows that within minutes, his position can be publicized to the world via social media. This will often constrain Poskim from issuing rulings that they feel are right for an individual, but not for the global community. He wrote this in the context of the sensitive issue of women wearing *tefillin*:

These arguments also raise the question of whether legal rulings (particularly those of great social sensitivity) can and should take into account individual situations, which may (or may not) impact a given ruling. Rav Melamed and Rav Henkin discuss one potential situation: where a generally pious woman insists that this would be beneficial for her religious growth and is willing to don *tefillin* in private. Other complex situations might include school or other educational environments, pluralistic institutions like Hillel Houses, potential *kiruv* opportunities or challenges, keeping someone from leaving Orthodoxy, and a host of other questions. One could argue that all *psak* (legal rulings to specific questions) must remain local and individualized, thereby preventing a given individual’s needs from being overlooked in the face of a larger legal and social battle (in which the individual may have no stake or interest). One might counter, however, that in our hyper-connected world, the notion of a fully individualized *psak* is not feasible, especially in sensitive areas of halakha. One must assume that any *psak* given to an individual will be (mis?) interpreted as a global statement or taken as a precedent for others. The brouhaha created in the current case points to the great difficulty of issuing individual rulings, particularly when *tefillin* are worn in a public context.[[12]](#footnote-12)

**Conclusion**

The ever-increasing ways that we communicate encourages the creation of global ideological communities. Often defining ourselves as part of such communities gives us access to halakhic authorities we trust more than those who happen to live nearby. To the extent that Halakha recognizes the creation of such communities, we may use social media to strengthen our connections and disseminate (uniform?) halakhic positions instantly across the world.

However, as Poskim have noted, these communities and the authorities they rely on cannot always replace the pastoral and practical guidance of an in-person guide, whether or not that person is as ideologically in sync with the questioner. People who would rather find their *pesak* in an ideological community must also recognize the potential obligations that entails. Just as the ruling of *mara de-atra* is binding, if the above analysis is correct, the ruling of the leading authority in a given group may hold the same power.

Lastly, the globalization of *pesak* may actually hinder necessary individuation in *pesak*. Nevertheless, it is not possible to turn back. The dangers are present, but the reality is that many people are more part of their global ideological communities than they are of those in their physical vicinity. Thus, we must recognize the potential halakhic opportunities and costs that our current situation offers.

1. For a discussion of these positions, see *“Mara De-Atra: A Brief Sketch”,* Aaron Kirschenbaum, *Tradition* 27:4, pp. 38-39, available at: <http://traditionarchive.org/news/originals/Volume%2027/No.%204/MaraDe-Atra.pdf>. [↑](#footnote-ref-1)
2. See, for examples*, Responsa Chayim Bad* 108; *Shem Gedolim, Ma’arekhet Ha-sefarim, Bet “Beit Yosef*”; *Urim Ve-tummim*, Chapter 25 in *Kitzur Tokfo Kohen* 123-3. For a full discussion of the acceptance of *Shulchan Arukh*, see “The Reception of the ‘Shulḥan 'Arukh’ and the Formation of Ashkenazic Jewish Identity” by Joseph Davis in *AJS Review*, Vol. 26, No. 2 (November 2002), pp. 251-276. Maoz Kahana has further written about the role that the *Chatam Sofer* and *Noda Bi-Yhuda* had in this process. See his book*, Halakhic Writing in a Changing World: From the Noda Bi-Yhuda to the Chatam Sofer,*1730-1839 [Hebrew]. [↑](#footnote-ref-2)
3. See previous note. [↑](#footnote-ref-3)
4. Whom the Rema was meant to bind has been a dispute since the time of Rema. See *Vikuach Mayim Chayim.* Maoz Kahana writes about this extensively. [↑](#footnote-ref-4)
5. See, for example, *Responsa Rav Eliyahu Mizrachi* #78 and Davis above. [↑](#footnote-ref-5)
6. It is also possible that the original geographic Ashkenazic and Sephardic communities were defined by culture rather than strict geography. Rav Elli Fischer and Moshe Schorr have offered evidence for this using analysis of metadata, at least in the case of the authority of certain Poskim such as Rav Shelomo Kluger and Maharsham. See <https://blog.hamapah.org/>. See also the introduction of Sema who seems to go in this direction. See Davis above. [↑](#footnote-ref-6)
7. See *Responsa Shevet Ha-Levi* 6:59, *Responsa Iggerot Moshe, YD* 2:75, *and Responsa Siach Nachum* 30. Each have slightly different understandings of this, but they all urge following this model. Rav Ovadya Yosef writes about this more than any other *posek* in the modern period. As Rav Dr. Binyamin Lau has documented, Rav Ovadia devoted his life to bringing Sephardim back to the rulings of *Shulchan Arukh*. This was despite the fact that many authorities, such as Rav Mordechai Eliyahu and Rav Shelomo Mesas denied that all communities among *Edot Ha-mizrach* (Eastern communities) had followed *Shulchan Arukh*. They instead followed their own authorities, such as *Ben Ish Chai*. See Lau’s book, *Mi-Maran ad Maran* (Hebrew). [↑](#footnote-ref-7)
8. Rav Norman Lamm was one of the first people to write about this phenomenon and its tenuous basis. See his article here: <https://www.yutorah.org/sidebar/lecture.cfm/842628/rabbi-norman-lamm/%D7%AA%D7%95%D7%A7%D7%A3-%D7%9E%D7%A0%D7%94%D7%92%D7%99%D7%9D-%D7%A2-%D7%A4-%D7%9E%D7%A0%D7%94%D7%92%D7%99%D7%9D/>. [↑](#footnote-ref-8)
9. Rav Nathaniel Helfgot, “Minority Opinions and their Role in Hora’ah”, *Milin Havivin* Volume 4. [↑](#footnote-ref-9)
10. Rav Helfgot does note that within a given shul, one may still be required to follow the geographic custom rather than his ideological one. See note 39:

It would seem, however, that public manifestations of a practice that fly in the face of the accepted custom of a specific town or in our contemporary contexts, synagogue, would not be sanctioned. Such actions would contradict the principles outlined in the fourth chapter of *Pesachim* that require one who moves to a new locale to accept the public practices of the community that one is now residing in, especially when public actions to the contrary would cause discord and strife. [↑](#footnote-ref-10)
11. “Legitimization of Modernity: Classical and Contemporary,” in *Engaging Modernity: Rabbinic Leaders and the Challenge of the Twentieth Century*, edited by Moshe Z. Sokol (Aronson, 1997), pp. 3-33. Reprinted in *Leaves of Faith*,volume 2 (2004), pp. 279-308, specifically pp. 289-290. [↑](#footnote-ref-11)
12. Rav Shlomo Brody, http://www.torahmusings.com/2014/02/women-tefillin-and-the-halakhic-process/. [↑](#footnote-ref-12)