

## Article

# Torah Trumps Life: Reflections on Uncivil Religion and Haredi Response to the COVID-19 Pandemic

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**Abstract:** As if by design, crisis reveals basic structural fault lines. In the middle of the COVID-19 crisis, non-Haredi Jews expressed surprise and even outrage about the ultra-orthodox Haredi response to the pandemic. It was not understood how large-scale violations of public health protocols comported with the legal-halakhic principle of *Pikuaḥ Nefesh* (saving human life). In this essay, I explore Hasidic response to COVID-19 as reported in the secular and Haredi press and in emergent social science literature about this crisis. I place Haredi response to crisis in relation to the clash between two sets of values: the value of saving human life and the value of intensive Talmud study (*talmud Torah*) and ritual-communal practice. In what Robert Cover called a *paideic nomos*, there are more important things than human life. What we see already in the Babylonian Talmud is the profound ambiguity of *paideic norms vis-à-vis* the larger public good.

**Keywords:** COVID-19; Haredim; Hasidism; ritual; Babylonian Talmud

Writing about ultra-orthodox Haredi Jews in the larger American Jewish imagination, Nora Rubel (2010) refers to a spectator pleasure enjoyed by non-Haredi Jews to this day.<sup>1</sup> What Rubel touches upon is that a common way of being Jewish in North America and in Israel is looking at Haredi Jews and Jewishness, in the world, in the press, on television and movies. By non-Haredi Jews, I include the range of Jews who are themselves anti-Jewish, anti-religious, assimilated, culturally Jewish, liberal religious, and modern orthodox. Haredi Jews are, for them, a mixed source of fascination, envy, resentment, nostalgia, contempt, fear, and rage. In a very general way, Haredi Jews represent a displaced version of “us”. “They” represent what “we” imagine “we once were” or “what we could be” in terms of family structure, integral community, spirituality. At the same time, Haredi Jews are definitively not “us”. “They” represent a perceived threat to Jewish modernity, assimilation, egalitarian gender and liberal political norms, the larger social good, and “our own” religious practice. This already old pattern repeats itself today as non-Haredi Jews continue to watch simulacra of Haredi Jewishness in print and television news or via streaming video, news sites, and other online entertainment platforms. Central to both Haredi Jewishness and to the non-Haredi view of Haredi Jewishness is the look of a large collective mass. As an object of analysis, Haredi Jewishness represents a “world”, a more or less self-sufficient enclave set apart from the secular world and steeped in traditions of intensive religious togetherness.

Seen from the outside, the belonging together of Haredi Jewishness is that of a *paideic Torah-nomos*. By *paideic nomos*, I am following legal theorist Robert Cover in his landmark essay “*Nomos and Narrative*” (Cover 1983). A *paideic nomos* would be a uniquely crystallized form of community that brings values into sharp relief. *Paideic communities* are the places in which norms are taught in especially heightened form. *Paideic nomoi* are “*jurisgenerative*”, i.e., norm-creating and law-proliferating social forms. They maintain their identity through “*expulsion and exile*,” without, according to Cover, relying upon state power. As also per Cover, *paideic nomoi* are works of pure imagination, fantasies characterized by an unreal image that create illusions of legal meaning marked by the appearance of dazzling transparency, immediacy, and unity.<sup>2</sup> In contrast, so-called “*imperial nomoi*” are legal systems in which norms are objective and heteronomous. On the



**Citation:** Braiterman, Zachary J. 2023. Torah Trumps Life: Reflections on Uncivil Religion and Haredi Response to the COVID-19 Pandemic. *Religions* 14: 946. <https://doi.org/10.3390/rel14070946>

Academic Editors: Elias Sacks and Andrea Dara Cooper

Received: 9 March 2022

Revised: 13 June 2023

Accepted: 14 June 2023

Published: 24 July 2023



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one hand, they represent the state and judicial violence. They are “jurispathic” in their suppression of law that they cannot accommodate. On the other hand, imperial or liberal *nomoi* are predicated upon interpersonal relations that are weak and minimal. In a diverse society, these qualities make for an operation that is open, loose, flexible. Writing in a radical communitarian vein, Cover emphasized the arbitrary, violent, coercive character of the state and social order. Naïve perhaps, according to Cover, liberal-imperial *nomoi* should depend upon and draw normative and even redemptive meaning from paideic communities.<sup>3</sup>

Worth noting at our own moment of crisis when liberal norms are under threat by conservative politics and jurisprudence is how the exclusively religious paideic norms reflected upon by Cover are rooted in biblical, Talmudic, Mennonite, and Amish legal and narrative traditions in their clash with secular judicial authority. Progressive critics of state authority will note the focus in “Nomos and Narrative” on the paideia of abolitionists in the struggle against slavery and the paideia of the Civil Rights movement against Jim Crow. No less paideic is the example in Cover’s essay of the ultra-conservative non-denominational evangelical Bob Jones University in its case against the U.S. government before the Supreme Court in 1982 seeking to restore its tax-exempt status after the IRS revoked it in response to university policy banning interracial dating. Progressive or conservative, paideic communities are political sites of legal conflict. These conflicts highlight for Cover the need to sort out constitutional legal principles, here being vital questions about the right of a self-secluding religious community, in the case of Bob Jones, to educate their young according to particularistic value-sets at odds with broader social norms. The judicial model advanced by Cover is agonistic. Paideic and liberal-state-imperial *nomoi* are supposed to come into conflict around competing norms. Worth noting is how, in their relationship to the larger social world, paideic *nomoi* are recognized by Cover as particularly aggressive. They are “a sword as well as a shield”.<sup>4</sup>

From a distinctly liberal point of view, my own fascination at the particular form of conservative, ultra-religious Haredi paideic *nomos* is meant to address larger interlocking questions about religion and value. First, I am looking at the basis in the paideic order of Talmud and at Haredi first responses to the COVID-19 pandemic in order to clarify theoretical questions about Jewish norms and values. Knowing that this will, of course, depend upon the “Judaism” in question, I still want to ask an overarching set of questions. What is the most important thing in Judaism, and what does Judaism value most of all? Second, I am interested in political questions about religion and secularism, about the value of the *nomos* of a paideic community versus the value of the secular canopy of a liberal political *nomos*. In these reflections, I will observe how both Talmud and Haredi first response to COVID-19 confounded “common sense” and “conventional wisdom” as represented by the broader liberal public and by public health professionals inside and outside of government. What we learn from Haredi first response to the COVID-19 pandemic is that nothing about Judaism and Jewish ethics is what one thought it was at first glance. The first Haredi response to COVID-19 revealed that the one thing that “everyone” believed that they could agree upon about Judaism was not actually true: namely, that the preservation of human life is paramount in “Judaism.”. Haredi first response to COVID-19 has also shown that liberal political theorists since Hobbes, Spinoza, and Locke were right about the perceived need to subordinate religious interests and ecclesiastical authority to state authority and the public good. What becomes clear at a moment of life and death crisis is that the larger life of the paideic *nomos* is a life-form that seeks to sustain itself in the face of that very crisis: above all and even unto death, paideic *nomoi* steeped in values value values more than mortal human life itself.

My intention in this essay is definitely not to offer a formal halakhic analysis of the relevant positions relating to the COVID-19 pandemic and to the value of *Pikuaḥ Nefesh* (saving human life) in contemporary Haredi and non-Haredi halakhic literature or in premodern halakhic sources relating to *Pikuaḥ Nefesh*. If anything, my intention is not to privilege halakhic discourse as the exclusive, primary site of Jewish religious response to

the first waves in the COVID-19 crisis at its most lethal, pandemic stage. Mine is a different project: a philosophical essay about what turns out to be the conditional value of saving life in religious and other value-based forms of thought and culture as shown at a moment of crisis. My sources are: [1] public statements by and reports about Haredi community leaders, primarily in Israel and also in the United States, as reported in the Haredi and secular press; [2] social scientists tracking the first waves of response and social scientists in Jewish Studies who have examined larger dynamics particular to Haredi society as a self-enclosing enclave community; and [3] relevant passages in the Babylonian Talmud (Bavli). I focus solely on the first waves of the COVID-19 pandemic in 2020 when the rates of hospitalization and mortality threatening to overwhelm larger public health systems were especially pronounced in Haredi communities. The conflict at stake was between the value of human life versus the more primary value of public *talmud Torah* (the study of Torah) and other public forms of ritual practice that sustain the holy nomos.

### 1. Talmud Torah Is Greater Than Pikuah Nefesh

The well-known principle of Pikuah Nefesh (saving life) is the one thing that non-Haredi Jews almost always seem to take for granted when they think about Judaism as a moral system. The notion is that saving life universally trumps everything unambiguously, that the law is that life trumps law in each and every case of collision. Justifiably proud of this human impulse in the classical sources, modern Jews see in it a banner to the flexible and life-affirming character of Judaism as such. But is it the cardinal principle of Jewish law or even “the essence of Judaism”? Is its imperative absolute or relative? That Pikuah Nefesh is, for many modern Jews, the most reified of halakhic concepts is enough to raise critical doubts about Jewish law and ethics and about the claims made in the first place by modern Jews about Judaism. What I want to show instead in this section is that Pikuah Nefesh is restricted in the Bavli to negative mitzvot concerning forbidden labors and forbidden foods—that there are exceptions to the rule, and that there are exceptions to the exceptions. More to the point, I want to mark the principle of *talmud Torah* as a critical competing value-principle to Pikuah Nefesh. The value pluralism of Jewish life contains *competing* standards and goods that potentially clash in actual or concrete situations. Physical life is not a single, self-standing, anchoring norm in the Bavli.

One of the main rabbinic teachings about saving life appears in tractate Yoma of the Mishnah and Babylonian Talmud. The Mishnah teaches that a pregnant woman should be fed on Yom Kippur if she has a “morbid desire” for food which she smells. A sick person should be fed at the advice of experts and according to the best judgment of a non-expert second party or according to the judgement of the actual sick person in the absence of experts. The direct statement about saving life appears in a line of gemara. “Our Rabbis taught: If a pregnant woman smelled the flesh of consecrated (*kadosh*) meat, or of pork, we put for her a reed into the juice and place it upon her mouth. If thereupon she feels that her craving has been satisfied, it is well. If not, one feeds her with the juice itself. If thereupon her craving is satisfied it is well; if not one feeds her with the fat meat itself, for there is nothing that stands before saving life, with the exception of idolatry, incest, and bloodshed” (Yoma 82a).<sup>5</sup>

Related to Pikuah Nefesh is another classic formula, this one in the same gemara in tractate Yoma. Any “*sefek nefashot*” (uncertainty about life) overrides (*doche*) Shabbat. Again, there is no doubt whatsoever about the priority of life over/against the performance of negative mitzvot, here relating to Shabbat in particular. These would include Sabbath prohibitions against the labor of preparing and applying medicines, heating water, removing debris, and so on. It is obligatory and actually praiseworthy to violate the Sabbath by performing discrete, prohibited labors in these cases in order to save a human life. Be vigilant; there is no need to go to a court for permission. A child falls into the sea, a person should spread a net to catch the child even if the net catches fish in the process. A child falls into a pit, dig the child out even if one creates a step in the process. Do not wait; break down a locked door if a child is locked inside, even if one does so intending to use the

broken boards later after Shabbat. Extinguish a fire in case of emergency, even if one ends up using the burning embers later (Yoma 83a, 84b).

The scriptural derivations for the rabbinic principle that “Pikuaḥ Nefesh precedes Shabbat” are the subject of a lengthy conversation between a group of early Palestinian rabbis, or tannaim. Various prooftexts are tried out and abandoned. The gemara ultimately requires the intervention of Shmuel, a Babylonian amora, to decide the matter with requisite finality. “Rav Yehuda said in the name of Shmuel, If I had been there, I would have said mine [i.e., my proof] is preferable to theirs: [‘You shall keep My statutes and My ordinances, which a person shall do] and live by them” (Lev.18:5), but he should not die by them” (Yoma 85b). Another Babylonian sage, Rava, will go on to show that among all possible contenders, this one is the only irrefutable prooftext. Israel is supposed to live by the law, not die by it. From the prooftext, it could have been clear that the value of life overrides *all* of God’s statutes and ordinances. These would be every one of them, not just the negative mitzvot surrounding Yom Kippur and Shabbat that actually appear in the sugya from Yoma. Citing the same biblical prooftext from the gemara, the formulation by Maimonides about the need to violate “any one from all the mitzvot said in the Torah” (*‘al aḥat mi’khal mitzvot ha’amurot ba’Torah*) would seem to give the principle of Pikuaḥ Nefesh that widest application (*Hilkhot Yesodei Ha’Torah* 5:1).

The very well-known exceptions to the principle of saving life appear in tractate Sanhedrin. The Bavli teaches there that one must offer one’s life rather than violate three cardinal sins: idolatry, forbidden sexual relations, and murder. But there are exceptions to the exceptions. These exceptions to the exceptions underscore the value of life in Jewish tradition while challenging other ethical and religious norms that one might have otherwise assumed were just as bedrock. While the prohibition against murder is vigorously defended, one can, in fact, violate, under certain conditions, the rules against idolatry and illicit sexual relations. Note that these cardinal sins are also negative restrictions: do not perform this act or that act or this act. Against what seems like a hard and fast rule, the gemara teaches that one can transgress at least two of these supposedly foundational prohibitions in order to save one’s own life. Except during a time of religious persecution, the performance of idolatry is generally permitted as long as the transgression is conducted in private. Women who suffer sexual assault are also not obligated to give up their lives. Again, the prooftext is that a person should live by the mitzvot, and not die by them (Sanhedrin 74a-b).

But the principle of Pikuaḥ Nefesh is not universal. First is the problem of non-Jewish life that the mishnaic and amoraic sources do not acknowledge as worth saving. (The medieval halakhic literature will later include gentile life under the rubric of Pikuaḥ Nefesh). A second limiting question is whether or not the rule of saving life applies only to a specific case concerning the life of a particular person and whether that individual’s life will definitely be saved by the violation of a commandment. A more serious confusion that would unsettle any certainty about the principle of Pikuaḥ Nefesh is that the literature seems to refer only to negative mitzvot: do not perform this labor on Shabbat, do not eat pork, do not worship idols, do not engage in illegitimate sexual relations, do not murder. Despite the broad ruling by Maimonides, the examples about Pikuaḥ Nefesh in tractate Yoma are limited to Yom Kippur and Shabbat violations. They do not seem to embrace positive nomos-creating and nomos-maintaining actions, including the most important value and mitzvah of all, as we are now about to see.

In the value-scheme of the Bavli and the Judaism it represents, arguably the one thing greater than Pikuaḥ Nefesh is Torah and the study of Torah (*talmud Torah*). These are the sine qua non of the paideic world of the Bavli. Rabbinic texts recognize that Torah study is key to life in the world to come, which is greater than life in this world, that the other is but a corridor to the one. In tension with the value scheme set up in tractate Yoma, the absolute value of Torah and *talmud Torah* is more than implied in well-known stories about the iconic R. Akiva and other martyrs who die extraordinary deaths at the hand of gentile (Roman) government. For the sake of studying Torah in public against a government decree not to do so, these exemplary rabbis dedicate their souls, their very lives, and, in doing

so, they sanctify the name of God upon pain of death. These well-known, norm-creating stories speak to the power and piety of the paideia as a network of study and practice. They buttress the value system of the rabbinic community vis-à-vis the larger society and vis-à-vis government authority at grave moments of extraordinary peril. The value of Torah and of the positive mitzvah of *talmud Torah* told in these stories more than suggests that *Pikuaḥ Nefesh* is not a primary value in this particular expression of “Judaism” when pushed to the nth degree at a moment of crisis.

A more unusual and less well-known formulation that explicitly states that the study of Torah actually trumps human life appears in a brief moment in tractate Megillah of the Bavli. With its own eye also on the requirements of government, the ostensible subject is the Purim story in the book of Esther.

The sugya begins with a story about the divine attribute of justice, hypostatized as such, demanding to know from God what distinguishes Israel from the nations. The obvious answer is that Israel occupies itself with Torah. However, the attribute of justice retorts that the priests and prophets of Israel also get drunk and stumble just like the nations. This particular challenge goes unanswered (Megillah 15b). But a bit further below is the very unusual saying attributed to Rav Yosef that should be of profound interest here about what matters most in the rabbinic value-system. The text begins, “For Mordecai the Jew was next unto king Ahasuerus, and great among the Jews and accepted of the majority of his brethren.” To this the gemara adds, “Of the majority of his brethren but not of all his brethren; this informs us that some members of the Sanhedrin separated from him.” By way of explanation, the text then cites the remarkable statement by Rav Yosef. “Greater is the study of the Torah than the saving of life (*gadol talmud Torah yoter me’hatzalat nefashot*).” In his commentary, Rashi relates all this to government. He understands that Mordecai neglected or abandoned Torah study when he left the Sanhedrin and entered government service, and, for this, he lost status with the sages (Megillah 16b).

Here, then, is what the sages value most of all. Immediately preceding the statement attributed to Rav Yosef about the value of *talmud Torah* being greater than life is a gorgeous panegyric to the light of Torah, the gladness of festivals, the joy of circumcision, and the awesome sight (*kavod*, glory, or honor) of tefillin. All three are positive mitzvot, not the negative mitzvot which *Pikuaḥ Nefesh* may or may not override depending upon the situation. Not simply things to avoid, these are primary goods in the rabbinic world-system of the Bavli. How, then, is one to understand the claim that *talmud Torah* is greater than saving life? The text shows that complex systems such as the one set up in the Bavli are never conflict-free in relation to values, that this complexity cuts to the core of human life and death. The absolute value ascribed to the light of Torah and to its study underscores the relative value of what would otherwise be the absolute value of *Pikuaḥ Nefesh*. As it turns out, saving life is not itself an unambiguous good in this paideic value schema. The critical statement about Mordechai reflects how the affairs of government, the political interest of what Cover calls the “imperial nomos,” subsist in flat contradiction to the paideic Torah-nomos of the Babylonian Talmud and its successor traditions.

## 2. Do Not Close the Yeshivot

In the legacy or *mesorah* of the Babylonian rabbis, the primary value-scheme of *talmud Torah* and other positive mitzvot more than seem to trump everything. In comparison, the imperative of saving human life now looks like a narrowly circumscribed, negative override. That the positive primary value of the system is the life of the Torah-nomos itself should have explained in more than some small part the non-compliance in Haredi communities with public health directives, most notably in Israel during the first waves of COVID-19 in 2020. Indeed, what makes Israel such an important test case for these reflections is the significant social autonomy enjoyed by Haredim as members of a self-enclosed Jewish sectarian minority that enjoys political clout in a majority Jewish state. At issue was the refusal to close yeshivot and the insistence on holding the large communal events like weddings and funerals that are vital to Haredi communal life when the threat

posed by the pandemic to Haredi communities and to the public at large was at its height. Or, more simply still, at issue was the Torah nomos itself.<sup>6</sup>

During the first year of the pandemic, a lion's share of attention in the Haredi and secular media regarding the first response in the community to COVID-19 followed statements of two Haredi *gedolim* (major halakhic decisors): the Lithuanian/misnagdic Rabbi Hayim Kanievsky and the Hasidic Rabbi Gershon Edelstein. In particular, Kanievsky, well beyond in years and mentally frail, was crowned in the larger Haredi public with the superlative, "the minister of Torah" (*Sar Ha'Torah*); the term carries angelic associations. Kanievsky was renowned for his near complete seclusion from the world outside his small, modest apartment and for his total devotion to the world of Torah erudition (*lamdanut*). But how complete was their grasp of the situation? As Israeli journalist Anshel Pfeffer (2021) noted at the time, the spectacle around them created the false impression that these two paideic giants were in control when, in fact, the larger community response on the street was less organized and even pell-mell.<sup>7</sup>

Tracking the initial confusion is a study by Barak Corren and Perry-Hazan (2021) on the closure of Haredi schools during the first wave of the COVID-19 crisis in Israel (mid-March 2020). All schools in the country were first ordered to close, while several prominent rabbis, chief among them Kanievsky, ordered that Haredi schools should remain open. The authors estimate that about half of Haredi schools during the first wave in Israel complied with public health regulations, while the other half violated them. A survey in November 2020 during the second wave showed that 67% of Haredi schools were open during their mandated closure, which was a rise from the ~42–51% that were open in March. The authors also note that, in January 2021, the Ministry of Education reported that nearly half of all students infected with COVID-19 attended Haredi schools, despite being only 20% of the student population.<sup>8</sup> The study comports with reporting in the secular press about the disproportionate number of COVID-19-related deaths among Haredi Jews in Israel and in the Diaspora as well as with other social-scientific studies.<sup>9</sup>

Regarding matters of belief, the public Haredi response in Israel as reported at online Haredi news sites generally followed the standard theology of reward/punish: the pandemic was caused by lax Torah study, the sexual immodesty of women, gay pride parades, and so on. A statement in Kanievsky's name (with Edelstein signing on) claimed that the reason Haredi Jews have been driven from their synagogues is because of the sin of using cell phones at synagogue, the disrespectful violating of the sanctity of the place with worthless words.<sup>10</sup> More unique was the answer by Edelstein as to why Haredi communities suffered the pandemic in disproportionate numbers. The reason, he argued, is that secular Jews are like "kidnapped children" raised by gentiles, i.e., in secular Jewish communities. Not knowing better, their sins are inadvertent and punished more lightly than the sins of Haredi Jews who know Torah and whose sins are therefore intentional and consequently punished more strictly. Viewed together, the comments reflect traditional canons of theodicy, Torah-norms, and discourse. Above all was the notion in the Bavli that "Torah protects forever" (*Torah meginah l'olam*) (Sotah 21a), namely, that the merit of Torah study protects from harm those who engage in it.

An important little document against closing yeshivot in response to the COVID-19 outbreak was co-signed, again, by Kanievsky and Edelstein. Not a full-blown halakhic response, the letter from March 2020 is a snapshot of the moment. The letter was meant to encourage and support the yeshiva communities and the larger Haredi public. It expressed pain and concern about the institution of the yeshiva, while relying on the world-maintaining protective power of *talmud Torah* and of prayer and repentance (*teshuva*), the value of *yirat shamayim* (fear of Heaven), and confidence in divine justice and salvation. Even as the two rabbis sought to accommodate directives from the Ministry of Health, they were clear that the yeshivot mattered most of all. The letter continues, "Our sages have already stated (Yoma 28b), 'Since the days of our forefathers, the Yeshivos have never ceased [to be active] from them.' They further stated (Shabbos 119b): The world only exists on account of the sounds of children in the house of their Rebbe [yeshivos]. They are the

greatest insurance possible that the destroyer not enter into the homes of Israel." That is why they insisted that the yeshivot should remain open during the pandemic. "Certainly," they continued, "it is our obligation to awaken ourselves to the Fear of Heaven and to do Teshuvah, in accordance with the saying [of the sages] (Yevamos 63a), 'Calamities only come to this world in order that [Klal] Yisroel strengthen themselves in the belief of the futility of 'the strength and power of my hand' of all the nations during these times. Rather, we must have faith in the Holy One Blessed Be He who watches over all His creations, and no man is stricken by a calamity if it was not decreed from Above. And may the merit of Torah and all that strengthen us stand for us as protection and salvation".<sup>11</sup>

Alongside these theological doxa is the social-political factor identified by Pfeffer and other Israeli journalists. Obeying the government dictate to close the schools would have violated the hard-won political autonomy of a powerful minority community.<sup>12</sup> The same is observed by social scientists [Malovicki Yaffe and Friedman \(2021\)](#) whom I quote in full: "The coronavirus surveys reveal a trend of 'community convergence'—that is, a shift away from the full view of reality and deliberately choosing to focus on their own story, their own perspective as the only point of view aiming to formulate an alternative reality. This is accompanied by a sense of being a powerful and meaningful community that does not need the outside world to tell it what reality is. The majority of the Haredi community thought it would get all the information it needed about the crisis from inside sources, as if the outside world and its information were irrelevant. Haredim consulted *their* rabbis, *their* mayors, *their* newspapers. As social identity theory predicts, high power groups are not looking for other groups to shape their reality. Thus, a reasonable explanation for the Haredim's community convergence is that they choose insularity because they are in a position of power, because they can".<sup>13</sup>

The story about the hard-won power enjoyed by a relatively small community in both Israel and the United States to create an alternative social reality and spiritual milieu obscures the fatal vulnerability observed by Asaf [Malchi \(2020\)](#) in an op-ed posted online at The Israel Democracy Institute concerning long-standing attrition rates among yeshiva students that were accelerated by the pandemic.<sup>14</sup> The same vulnerability was reported at the online Haredi news site *Kikar Ha'Shabbat* about a well-known yeshiva director close to Kanievsky who expressed with certainty that the instant the Haredi authorities close the yeshivot for even a second, they will not be able to reopen them. The fear was losing an entire generation of young people to the surrounding non-Haredi society. In a telephone conversation between heads of large yeshivot in Israel, he is reported to have said that government thinks closing yeshivot is a technical matter, like closing "their universities and educational institutions." "Tell R. Chayim and R. Gershon," he is reported to have said, "that if my yeshiva is closed it will not be in my power to reopen them," and that he cannot keep "the guys" from abstaining from all things out in world like smart phones and the like. "This will create in yeshivas the 'Corona generation' who will be on such a spiritual level that it is doubtful that they will be able to return to study." As reported, he did not see "the possibility of spiritually rehabilitating students who are more than two months without the framework of a spiritual regime (*mishtar ruhani*)".<sup>15</sup>

In the United States, the leadership at the Lithuanian Moetzes Gedolei HaTorah and at the Vaad Roshei Yeshiva of Torah Umesorah issued a public statement in October 2020 when the New York State region was facing a second wave of the virus. They expressed the same worries as their counterparts in Israel. On the one hand, there was the recognition that the number of cases was disproportionate in the Haredi community and there was an urgent call to follow public health guidelines regarding testing and isolating infected people. On the other hand, there was the need to "assure the ongoing function of our schools and shuls." Because "our survival depends on it!" The statement could not be more clear-sighted. Haredi society would collapse without these institutions maintaining the separate, enclave structure of the community. "Once again, our *batei chinuch* and *batei medrash* and *batei knesses* have been thrust into immediate jeopardy! The core of our

existence, our *ruchnius* [spiritual] lifeline and our societal endurance are in the direct hazard of abrupt shutdown!"<sup>16</sup>

Traditional bromides made in public about the protective power of Torah pale before the anxiety expressed in private about the future of the yeshivot. Intensive and exclusive Torah study has been the hallmark of Haredi society going back to the nineteenth century in eastern Europe. Total *talmud Torah* was the principal tool with which to stave off the corrosive force of modernity on traditional norms and community. The anxiety in the face of the first waves of the pandemic highlights the fragility of an artificial social construct and the intensive arrangement needed to uphold institutions without which the Haredi way of life cannot exist.<sup>17</sup> As covered in the Haredi press and in preliminary first reports, most Haredi leaders in the United States and in Israel expressed deep worry about the institution of yeshiva study. In contrast, there was no sustained mention by leading authorities of *Pikuaḥ Nefesh*, nor was there mention of the broader social good connecting Haredi Jews and the larger, non-Haredi public. At most, there was worry about public backlash, more notably in the United States than in Israel, but nothing that rose to the level of principle.

I shy away from the any notion that the Haredi first response to COVID-19 and other public health and safety crises are in direct violation of halakha, if not the spirit of Judaism itself. I have no doubt that the great Haredi *poskim* of the generation understood the halakhic issues perfectly well, and I doubt arguments that they were distorting some essential truth in the tradition that, for some reason, they failed to consider. It is better to assume that the *gedolim* and the people surrounding them grasped the normative value scheme and social dynamics that define their own world. As an outsider to these communities, my own bracketing of the modern cliché about the absolute value of *Pikuaḥ Nefesh* is meant to resolve the cognitive dissonance expressed especially by non-Haredi Jews when they confront what is thought to be a self-evident given in "Judaism" and what they actually saw happening in Haredi society over the first stages of the pandemic. My own view is that looking back at Haredi first response to COVID-19 more than suggests that saving life is not an absolute value in these kinds of paideic *nomoi*.<sup>18</sup>

Setting aside value-concepts like God or Torah, I want to stay with a simpler theory. When all is said and done, the essence of religion as a communal form is communal form, the essence of which is demographic mass. The large group is that feature that accords the social *nomos* with what Berger and Luckman (1966) termed a "plausibility structure," i.e., the sense of reality or the social construction of reality that maintains the social order as real, obvious, and given.<sup>19</sup> In a classic study of Haredi community in Israel, Samuel Heilman (1992) observes that the artificially created sense of being part of something "really big" provides a counterbalance to life in what is an otherwise small, enclosed world. Writing about instances of routine social maintenance, Heilman refers to large halls in buildings, big public Sabbath gatherings, and rites of passage such as weddings and funerals. According to Heilman, these "protected mass diversions" physically manifest the power of the community and the control of the group.<sup>20</sup> Along the same lines, Raucher and Seideman (2021) have argued that collectivity is the most powerful engine of Haredi personal and communal identity. "It is in crowds," Raucher and Seidman say, "that the size and power of these communities in their new ascendancy become visible to insiders as well as outsiders. It is not only that Haredim gather in the thousands for funerals, celebrations, demonstrations. To be Haredi is to gather with other Haredim, to see yourself reflected in a crowd, to follow implicit and explicit community standards, to sway along with other bodies moving as if one. This directive to join the crowd is an invitation to submerge individual difference within group conformity but it is also its own reward, in the 'collective effervescence' that is available only to a crowd".<sup>21</sup>

As scholars have long since realized, the possibility of a large Haredi mass set apart from the surrounding society is itself a byproduct of that larger secular society and modernity. Menachem Friedman (1991) was one of the first to note this about the "society of scholars." Prior to modern emancipation, the community of scholars in eastern Europe was a small, self-selecting elite. Over time after World War II, intensive and long-term



Talmud study became a norm for the entire community of men. The Haredi society of scholars owes its existence to the modern liberal state: the welfare state in the United States and in Israel and the direct funding of yeshivot in Israel. Support from the liberal state makes it possible for a large mass of men to leave the workforce and still eke out a bare living for their working wives and large families. The society of scholars was made possible by maximalist interpretations of constitutional or semi-constitutional frameworks (the Jewishness of the State of Israel, the free exercise of religion and First Amendment principles, the liberal value of religious pluralism in America and shifts to the religious right and fundamentalism). Aligned with those principles is the work of Haredi politicians and other political operators who secure legal rights and protections, and state funding for members of the community and the non-interference by governmental oversight of Haredi institutional life.<sup>22</sup> Haredi communities are not, in fact, organic or self-sustaining. The particular success of the Haredi world to sustain itself at this level of intensity and social extension is itself a historically unique post-Holocaust artifact with distinct political features.

The academic scholars remind us that Haredi society is a successfully adaptive collective form. In contrast, my own reflections in this paper reflect nothing more than snapshots from year-one of the COVID-19 crisis.<sup>23</sup> I have no doubt that, in the long response to modernity, Haredi society will undoubtedly continue to adapt and adjust, showing all sorts of variation within the community, savvy political accommodations, and new forms of struggle vis-à-vis society at large. William Helmreich, in his 1982 study of the yeshiva, suggests that what sustains the enclave of Haredi Judaism at this late modern moment is, at least in part, the inherent aura of paideic Haredi community itself, the exclusive intensity of its *talmud Torah*, the paideic form of the communal apparatus itself.<sup>24</sup> Maybe what appears to be mal-adaption in the face of a pandemic-crisis (the disproportionate impact of the pandemic in these communities and the strain these communities put on society at large) might turn out to have been the height of communal adaption. The refusal to abide by public health regulations and close schools and cancel events might have been that which preserved the unique structure of the community, no matter the cost in human life and the standing of Haredi community in society. It could also turn out that the gambit ultimately backfires.

### 3. Uncivil Religion

Viewed from a more theoretical point of view, the response in these communities to COVID-19 represents a serious challenge to the conservative turn in non-Haredi contemporary Jewish thought and philosophy. By this conservative turn, I mean the intentionally anti-liberal orientation that blurs the difference between religion and the political by subsuming the religious into the political. I also mean the valorization by modern non-Haredi Jews of the semi-autonomous Jewish corporate identity of the old ghetto and the reification of texts, law, and normative community. Joined by radical voices from the left, the conservative turn is part of an animating contempt for liberal culture and liberal religion. The anti-liberal animus relies upon the backward-looking fantasy of authority. In the conservative way of looking at it, Judaism is normative law and politics; law would provide for Jews and Judaism their own robust, semi-autonomous realm; good citizenship and social ethics require conservative religious normativity; Judaism is not “a religion” in that it does not conform to the caricature of some putative, liberal Protestant model relating to private belief, and so on.

I would argue that Haredi response to COVID-19 recommends a different set of conclusions. Especially during times of mass social crisis if at all, paideic *nomoi* do not make for good citizenship. With absolute commitments to a crystallized value-set, extreme and conservative community make for what I would call Uncivil Religion.<sup>25</sup>

With roots in the 1960s, the idea of Civil Religion is defined by institutional and ideological sites that are supposed to bind up the demos under what sociologist of religion Berger and Luckman (1966) called a “sacred canopy.” It is supposed to hold up under

conditions of social crisis and conflict, comporting itself with broadly shared constitutional and ethical values that bind up society together into the form of a covenant. Civil Religion includes what Heilman (2006) identifies as the contrapuntal accommodationism in mainstream modern Orthodoxy.<sup>26</sup> “Uncivil Religion,” in contrast, is religion set apart from and against civil society, against the larger social good against which Uncivil Religion seeks to protect itself, upon which it depends, and which it might seek to dominate. Uncivil Religion is a sectarian formation that works against liberal-civil society from inside the semi-autonomous value-set of a paideic nomos. In the most extreme form of a realized utopia—that is, the inverted world of a heterotopia—leaders set rules and norms, an ethos or way of life opposed to the majority mainstream from the side of extreme alternative values and perspectives. The values of Uncivil Religion are opposed to secular society and liberal religion.<sup>27</sup>

In his 2006 analysis of the “slide right” in American orthodox Judaism, Heilman assumed the ascendancy of conservative religion and traditionalism post-1979 only to ask if the old way truly was better than the new way. More recently, Ayala Fader (2020) has written about Haredi society as an alternative religious modernity; Shaul Magid (2014) assumes that Haredi fundamentalism is “uniquely equipped to confront modernity and offer an alternative template for human civilization.”<sup>28</sup> For my part, I can think of no reason to believe that an alternative form of intensive Haredi community can ultimately scale up to be anything more than a sectarian movement in society and culture. Keeping in mind the distinction between community and society, I recommend rejecting the view by Cover, Bellah, and other communitarian thinkers who draw an unflattering distinction between the allegedly flimsy edifice of formal liberal constitutionalism and what they assume are more robust forms of traditional religion. Dependent on miracle and magical thinking in the face of crisis, paideic nomoi resist pragmatic accommodations in the face of collective crisis. The social disorder of mass disease and death mark the outer limit of Uncivil Religion and other forms of paideic nomoi in their alternative challenge to civil society, which commits itself to the primary value of *bios*.

Paideic nomos is not a viable template for large social forms having to do with the public good as such: roads, tunnels, electrical grids, hospitals, airports, bus terminals, train depots, supplies of food and water, supply chains, courts, public schools, national security and public safety, etc. Especially incoherent is the paideic concept of *Da’as Torah* (Knowledge of Torah, or, Torah Mind), a guiding ideology in twentieth-century Haredi society and culture. According to Benjamin Brown (2014), *Da’as Torah* is a modern political theology, one based upon the absolute infallible authority of Torah scholars as having the answer to all questions. Whereas politics was taken care of by the community or *kahal* in premodern Jewish societies, *Da’as Torah*, at least in theory, involves rabbis more directly into political matters. Brown argues that the involvement in public affairs is non-sovereign because it only imposes itself on its own members. But the assessment, written years before the COVID-19 pandemic, does not account for how such a Haredi paideic community strains state budgets and impedes economic life. Nor does it assess the stress on public health, safety, and vital infrastructure like hospital networks during public health emergencies. Most incoherent about *Da’as Torah* is how, as identified by Brown himself, a value system intended for a small-scale community itself subject to the governing authority of a larger state, wields significant political influence of its own over that very state.<sup>29</sup>

In contrast, the values reflected in the less intense form of liberal religion, including liberal Judaism, belong more seamlessly to what Cover called “the imperial nomos.” Even when critical of the social system, liberal religion takes its stand from within the norm-set of constitutional and “universal” moral schemas meant to shape the whole of society. Liberalism would be not just individualistic, atomistic, and non-normative, as per the old anti-liberal saw in leftwing and conservative social theory. A modern social form, liberal religion, when it functions, recognizes the respective competence of separate social spheres. That explains the adaptivity of liberal religion in the face of radical change and new social norms in response to crisis. During COVID-19, liberal religion coupled with the

principle of good government and human values like public health and the responsibilities of common citizenship. Its virtue is the lack of crystalline, paideic hardness. In liberal Judaism, in response to crisis, the supreme religious value is not paideic depth and “integral community.” After the pandemic, it will be shown that the liberal religious movements and liberal secular people did nothing exceptional in the face of the challenge beyond meeting vital social obligations, respecting public health guidelines, and protecting human life.

With its own special value-set based on holiness or purity, paideic nomos is a “distinct” and crystallized social sphere that is, for all that, not “separate” from society at large. Embedded in political life, its primary sphere of competence and virtue is not political. Regarding the specific form of Haredi paideic community, the perceived distance from profane, conventional life is more or less charming. The attraction is aesthetic and lends itself to romanticism. Haredi nomoi generate aura and attract the gaze of outsiders. At the same time, there is the exclusive devotion to the life of the enclave and to the hard sectarian boundary-making that makes the enclave possible. In this, they prove to be extraordinarily brittle at moments of crisis. Rather than pulling society together, paideic communities are uncivil and asocial in their separation from the larger mainstream, the liberal nomos, where political interests are ordinarily negotiated, accommodated and accommodating, determined pragmatically, contrapuntally in order to secure vital things basic to human life and the life of the polis. In modern times, the common good is a state-political responsibility that trumps the interest of religion when they collide.

#### 4. Dance of Death

Heilman cites an old quip by Eliot Cohen at *Commentary Magazine* to say that, in the tilt to the religious right at this political moment, Haredi Jews are just like everyone else, even more so (Heilman 2006).<sup>30</sup> Watching the GOP-MAGA universe respond to the wave of the Delta variant over the summer of 2021 in the United States provides ample proof that refusing to follow public health protocols and exposing the public to disease and death is a general phenomenon not unique to Haredi society and not unique to religion. In 2021, the Haredim dropped out of the public eye. The bigger picture shows that under conditions defined by ideological difference and moral conflict, values like “freedom” and “personal responsibility” can turn out to be more important to people in communities than so-called “bare life.”<sup>31</sup> In communities informed by paideic nomos, human life is not the sole good. Vital forms of group life sustain the life of the communal nomos by crowding people close together become vectors of pandemic and death before achieving “herd immunity”.

Set apart from the liberal society in which it is simultaneously embedded, Haredi first response to COVID-19 clarifies theoretical debates about state-sovereign discipline and bio-politics. Readers of continental philosophy and theory responding to COVID-19 will have already recognized that plague quarantines and other practices of social control situate Foucault’s analysis of the subjectification of persons in disciplinary societies and the extension of state control over populations and over life itself in bio-politics. *The Birth of the Clinic* (Foucault 1973) charts the first formation of the human vis-à-vis the spatialization and scopic regimes of knowing and social control in the clinics of the classical eighteenth century.<sup>32</sup> Foucault repeats the claim in *Discipline and Punish* (Foucault 1977a) that plague phenomena gave rise to “disciplinary projects” and “disciplined society.”<sup>33</sup> Fitting the timeline that determined Foucault’s genealogical thinking are the great pandemics of the seventeenth and eighteenth centuries: Seville (1647–52), London (1665–66), Vienna, (1679), and Marseille (1720–22).

Writing against classical models of clear and distinct ideas, the famous chapter on panopticism in *Discipline and Punish that begins the discussion of plague-discipline* was first published in France in 1975. I note this date in order to place Foucault’s critique of modern states and society vis-à-vis its own place and time in postwar Europe after fascism and world war, in the critical and romantic-revolutionary spirit of 1968, and in the aesthetic canons of surrealism.<sup>34</sup> Surrealistic is how Foucault’s analysis of the plague conjoins politics and aesthetics. For Foucault, the “political dream of the plague” is “not the collective

festival, but strict divisions; not laws transgressed, but the penetration of regulation into even the smallest details of everyday life through the mediation of the complete hierarchy that assured the capillary functioning of power; not masks that were put on and taken off, but the assignment to each individual of his 'true' name, his 'true' place, his 'true' body, his 'true' disease."<sup>35</sup> In this, the plague is "a mixture" that the social discipline of state power seeks to contain. In this surrealistic embrace of the experience or rather limit-experience of disorder and death, the plague has been aesthetically staged and theoretically structured as an erotic scene of ecstasy and liberation. For Foucault, "A whole literary fiction of the festival grew up around the plague, suspended laws, lifted prohibitions, the frenzy of passing time, bodies mingling together without respect, individuals unmasked, abandoning their statutory identity and the figure under which they had been recognized, allowing a quite different truth to appear".<sup>36</sup>

Reminding this reader of Hasidic dance or the dance of death in Bergman's *Seventh Seal*, the different truth in Foucault of the surrealist festival is the proximity to religion as an alternative utopian space that inverts Cartesian rationalism and the disciplinary society. About surrealism and "the spiritual" Jeremy Carrette (1999) brings this connection to light in works by Foucault. "The surrealist and later avant-garde thinkers were key facilitators in his entry into a dark hinterland of philosophical reflection; they offered ways to undermine the dominance of vision, to explore the absurdities of representation, to reach the point of death in language, and to listen to the screams of the body."<sup>37</sup> To this I would only add that imperatives to protect human life do not factor into the festival picture, which is set against liberal sovereign power and is intentionally anti-humanist.

If the humanist, liberal tradition in politics owed itself, historically, to the plague, the COVID-19 crisis today underscores the crisis of liberal civil and state authority, pressured not really from the political left so much as it is from the political and religious right. On the one hand stands the omnipresent and partitioning power of the regulatory state at a moment of global pandemic and national emergency. On the other hand is resistance to that omnipresence from the populist-fascist right. At a place where opposites meet, Foucault's critique of state discipline and bio-power rings an odd bell with the famous quip by Ronald Reagan in his 1981 inaugural presidential address. "In this present crisis, government is not the solution to our problem, government is the problem." Good-naturedly, Reagan chuckled in the next sentence, "It isn't so much that liberals are ignorant, it's just that they know so much that isn't so." Watching the state fumble the initial coronavirus outbreak so badly under Trump after some forty years of Reaganism and the gutting of state-function underscores the sense that plagues and pandemics lend themselves to a different judgment about the politics of surrealism. Outside religion and the literary fiction of "the festival" is just a cold stare into an abyss.

Reflecting a sacred paideia marked by skepticism, the Babylonian Talmud is an excellent site to return to at the end of these reflections in order to examine theoretical and lived contours between life, death, and the ambiguity of "the holy." I return to Talmud to close the circle of my own analysis of *Pikuaḥ Nefesh* and the value of life in religion; because Talmud represents a unique and highly crystalized paideic nomos; because Talmud is self-critical, if that is the right word for it; because in Talmud, everything is parsed and pulled between one valuation and another. Most typically, religious tradents associate *kedushah* (holiness) with life itself, with images of life-like light, water, and fruit. The rabbinic tradition is no exception. But there are two kinds of life that upset the easy cliché, i.e., life in this world and life in the other world to come, associated with sancta such as Shabbat and Torah in nineteenth-century Haredi thought. Caught between the two, religion and religious sancta bring together life and death, the organic and inorganic. As a hinge phenomenon, holiness and holy life are simultaneously repelled and drawn as much to the latter as to the former. The human person is supposed to live by the commandments. But what matters most are acts of religious noesis (reflection, study) and the noematic core of the sancta itself: Torah and *talmud Torah*.

Jacob Neusner (1988) and others like Mira Balberg (2017) have shown just how central the imagination of the Temple was to the rabbis long after its physical destruction by the Romans.<sup>38</sup> It comes as no surprise that a peculiar statement about Torah, life, and death should appear in precisely this setting, inside the holy, set aside, hedged in by taboo, contagious.<sup>39</sup> This bit of Talmudic text is from tractate Yoma, a meditation that is more reverie than halakha about the holy time of Yom Kippur and the holy space of the Temple. Located there, the *talmud Torah* of the Babylonian rabbis is imaginative discourse immersed in the materiel of holiness. Deep in the nut of the tractate reflecting on rules regarding robes, curtains, and vestments inside the Beit Ha'Mikdash, there is a digression about the ark and the crown of the ark. "Merit" is the keyword. In an aggadah according to R. Yoḥanan, "Whoever merits the crown of the ark can come and take it. However, crown (*zeir*) can be read as strange (*zar*). If a person is worthy it is a crown, if one is not worthy, it becomes estranged." The value of Torah study in this teaching depends upon the fear of Heaven (Yoma 72a).

But what is Torah? The Babylonian rabbis continue in this passage to reflect upon life, death, and the ambiguous power of Torah. For a brief moment, their reflection plays with the Hebrew word "*sam*," which can mean "to place" and also "drug." What kind of drug (*sam*) is the Torah that Moses placed (*sam*) before Israel? "R. Yehoshua b. Levi said: What is the meaning of the Scriptural verse: "And this is the law which Moses set (*sam*) [before the children of Israel]"? If he merits it becomes for him a medicine of life (*sam hayyim*) if not, a deadly poison (*sam mavet*). That is what Rava [meant when he] said: If he uses it with skill it is a medicine of life unto him; he who does not use it with skill, it is a deadly poison. R. Shmuel b. Nahmani said: R. Yonathan pointed out the following contradiction: it is written: The words of the Lord are upright, rejoicing the heart, but it is also written: The word of the Lord purges. If he merits it gladdens him; if not, it purges him. Resh Lakish said: From the body of the same passage this can be derived: If he merits, it purges him for life; if not, it purges him for death" (Yoma 72b).

The Bavli goes on its way, back to the discussion of priestly vestments. However, some readers might stop short, reminded of Derrida's discussion of the double and indeterminate aspect of the *pharmakon*, caught, as he saw it, in a "chain of significations" (Derrida 1981).<sup>40</sup> Reading the critique of writing in the Platonic dialogue *Phaedros*, the *pharmakon* for Derrida is an emblem of writing, which, just like Torah, can be a remedy or poison.<sup>41</sup> To be more precise: "introducing and harboring death," the *pharmakon* of writing might turn out to be a cure, as per Derrida, or the cure might turn out to be a poison.<sup>42</sup> About life and death, Derrida is not far from the Bavli, except for maybe the most important thing. For the Babylonian rabbis, the Torah-*pharmakon* is not conceived as an "aggressor" that undercuts the internal purity of some ideal truth.<sup>43</sup> Unlike Plato and with no suspicion, the Bavli brings the *pharmakon* into the center of its own system.<sup>44</sup> Not with truth and representation, the rabbis in Talmud are preoccupied by things like merit and skillfulness.

Crisis is defined by any eruptive force that shuts down entire systems that are vital to human life. For its part, religious authority is not responsible as such for maintaining large social systems. Its narrow purview is the life of the paideic matrix. The Babylonian rabbis believed that Torah sustains the life of the world. But the Bavli suggests that *talmud Torah* is too volatile a thing to align unambiguously around a loose thing like the worldly value of human life. The folding of life and death into each other is not a bug, but a feature of any paideic system. This *pharmakon* character is rigidly pronounced and especially visible in religious communities organized around saturated constellations of holy space and time. During a crisis, the paideic value-system courts danger and death because the paideia cannot shut down even for a moment without courting its own death. The way of life of the paideic value-scheme precedes the value of saving human life. Even as it aligns with life and the saving of life, *talmud Torah* can turn into a poison.

**Funding:** This research received no external funding.

**Institutional Review Board Statement:** Not applicable.

**Informed Consent Statement:** Not applicable.

**Data Availability Statement:** Not applicable.

**Conflicts of Interest:** The author declares no conflict of interest.

## Notes

- <sup>1</sup> *Doubting the Devout: The Ultra-Orthodox in the Jewish American Imagination*. Nora Rubel (2010, pp. 24–29, 148).
- <sup>2</sup> Robert Cover (1983, pp. 13–15, 67–68). See the study of “mediating structures,” i.e., the “value-generating and value-maintaining agencies” that mediate between individuals and the state in Charles Glen (2000, p. 3). Written under a distinctly conservative and anti-state auspices is the notion tracked by Glen that civic, especially religious mediating structures are better than government at providing education and social services because they are better creating “the sense of moral obligation that is essential to both” (7). The balance between communal autonomy and public accountability is raised in chapter 8. See chapter 7 for discussion of Jewish day schools.
- <sup>3</sup> My alignment of Haredi society with the closed-in order and value scheme of a paideic nomos is in some tension with current scholarship. I would only argue that the realities and the scholarship that highlight recent trends of more mobility in Haredi society and more active participation in the public sphere do nothing to obviate the classic boundary marking and oppositionality that have marked Haredi society in relation to larger, non-Haredi public spheres. See Itamar Ben Ami (2021). Ben Ami writes about the tension, “On the one hand, Haredim are part of the public sphere. On the other hand, their involvement does not signify ‘integration’ into the public sphere, but rather rejection of the neutral and liberal premises undergirding it . . . . If the ‘society of learners’ preserved its identity by withdrawing from its surroundings, a host of factors—the spread of the internet, the decline in the authority structure of the community, and processes of democratization—push Haredi society to define itself through involvement in the public sphere. It is precisely the threat posed by the neutral (and secular) public sphere that promotes an anti-liberal identitarian politics, according to which many Haredim feel compelled to fight for display of their identity in the public sphere.” On porous digital borders, see Ayala Fader (2020). Fader eschews the model of hard and fast borders and bounded communities to focus on mobility (pp. 20–21). But she also underscores that the online experience of Haredi doubters and the internet remains very much defined in relation to limited mobility and high communal barriers. The formation of “crisis,” “counter-publics,” “double-lives” speaks to variation and volatility alongside the fraught lived experience of limited or unfree mobility. The porous Haredi multiverse remains closed-in and striated, not open and smooth.
- <sup>4</sup> Robert Cover (1983, p. 33). On the publicness of religion at odds with what government defines as “public purpose,” see Perry Dane (1996) A Commemorative Volume for Robert M. Cover (Spring—Summer, 1996), pp. 15–64; especially pp. 39, 40, 43. On Cover’s faith in the principle of judicial agon, see Judith Resnik (2005). Resnik writes, “In that confrontation, one side has to blink—either the state or the paideic community—and in that pushing or backing off, some adaptation meriting the label ‘jurisgenerative’ might well occur” (pp. 33–34). No sense is given that Cover worried about anti-democratic outcomes in a case where it is the state that is compelled to “blink” in the face of aggressive non-governmental actors intent on a different order of order. Resnick comments that, for Cover, public disorder was an important element in the creation of legal meaning (p. 34). The question remains, however, as to how much and what kind of disorder can a polis sustain under what historical conditions. Holding no brief for Christian fundamentalism and structural racism, Cover wants to see the constitutional principles play out in the highest court of the country. About all this, it is worth recalling that “Nomos and Narrative” was written a long time ago. Relating to what Resnik calls Cover’s own “faith” (quoted above in this note), the essay demonstrates no concern that this conflict may not play out in the best interest of democratic values and institutions. On the anti-statism in Cover’s analysis, See Robert Post (2005, pp. 9–16).
- <sup>5</sup> My translations are a mix from the Soncino and Schottenstein translations, some of which I have altered lightly.
- <sup>6</sup> The unlikely possibility that the *Gedolim* were in 2020 simply unaware of the hospitalization and mortality rates involving COVID-19 is not substantiated in any of the media reports in the secular or haredi press in Israel that I reviewed. As I am arguing, the primary concern was keeping open the yeshivot. The theoretical possibility that the Haredi rabbinical authorities were not aware of the actual threat impacting the health and life of their own public is even more unlikely and would itself constitute a remarkable and confusing datum about the insular nature of Haredi society and its leadership.
- <sup>7</sup> Anshel Pfeffer (2020). Inside Israel’s ultra-Orthodox Coronavirus Hot Spots—Where Even the Mayor Is Sick.
- <sup>8</sup> Shared Fate, Unshared Faith: Israel and the Haredi Society in the Current Corona Moment at *The Haredi Moment: An Online Forum*, Part 2.
- <sup>9</sup> See “A nationwide analysis of population group differences in the COVID-19 epidemic in Israel, February 2020–February 2021,” 5 June 2021 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8177966/> and Zalberg and Block (2021). <https://link.springer.com/article/10.1007/s12397-021-09368-0> (accessed on 1 June 2023).
- <sup>10</sup> *The Yeshiva World* (2020). Hagoan HaRav Chaim Kanievsky: ‘This Is Why We’ve Been Driven Out From Our Shuls’.

- 11 “New Corona Health letter From Rav Chaim Kanievsky and Rav Gershon Edelstein” translated in *The Yeshiva World*, (15 March 2020) <https://www.theyeshivaworld.com/news/headlines-breaking-stories/1840119/new-corona-health-letter-from-rav-chaim-kanievsky-and-rav-gershon-edelstein.html> (accessed on 1 June 2023). In Hebrew, see *Kikar Ha’Shabbat* (16 March 2020), <https://www.kikar.co.il/abroad/351311.html>. Regarding the special place of the *tinokos shel Bais Rabban* (“the littlest children” as the “most precious treasure,” see Samuel Heilman (1992, pp. 173–74).
- 12 Anshel Pfeffer (2021). Israel’s Leading Rabbi Thinks Not Studying Torah Is More Dangerous Than Coronavirus.
- 13 Malovicki Yaffe and Friedman, Out Story—Our Story: The Haredi Community in COVID-19. *The Haredi Moment: An Online Forum*, Part 2.
- 14 Asaf Malchi (2020). The Haredi Fears Behind the Opening of Yeshivot Amid COVID-19 at The Israel Democracy Institute.
- 15 “Rosh Yeshiva Warns: ‘Closing the Yeshivot Will Bring a Generation of Corona’” (Hebrew), *Kikar Shabbat*, (15 March 2020). <https://www.kikar.co.il/abroad/351169.html>. Cf. Berger and Luckman (1966). Relating to face-to-face contact with authority figures, Berger and Luckman argue, “Disruption of significant conversation with the mediators of the respective plausibility structures threatens the subjective realities in question . . . The longer these techniques are isolated from face-to-face confirmations, the less likely they will be to retain the accent of reality” (pp. 174–75). The importance of the plausibility structure in warding off doubt is especially intensive in times of crisis (p. 175). On what Haredi leadership perceive to be the social and cognitive threat of smart phones to yeshiva study in particular and to the plausibility of the Haredi way of life, see Ayala Fader, *Hidden Heretics*, chapter 3.
- 16 “Moetzes Gedolei HaTorah and Torah Unmesora Release Joint Statement,” 8 October 2020 <https://agudah.org/moetzes-gedolei-hatorah-and-torah-umesorah-release-joint-statement/> (accessed on 1 June 2023).
- 17 The same fears were expressed by the Belzer rebbe Yissachar Dov Rokeach and the Gerrer rebbe, Rabbi Yaakov Aryeh Alter. See Rikki Sprinzak (2020). By December 2020 there was a report according to which “some 30% of yeshiva students have left their yeshivas since the beginning of the coronavirus crisis.” “Out of 80,000 bochurim, 24,000 are now on the streets. See “30% Of Israeli Bochurim Didn’t Return To Their Yeshivas After Lockdown” in *The Yeshiva World*, 1 December 2020, <https://www.theyeshivaworld.com/news/headlines-breaking-stories/1924721/30-of-israeli-bochurim-didnt-return-to-their-yeshivas-after-lockdown.html> (accessed on 1 June 2023). The obvious importance of the educational system in creating and sustaining Haredi society is highlighted by Heilman throughout *Defenders of Faith*.
- 18 Haredi first response to COVID-19 provoked a special problem for modern orthodox Jews. See Yitzhak Blau (2020). Blau is responding to Shaul Magid (2020). For his part, Magid is responding to Yitz Greenberg (2020). In these three discussions from and critical of the perspective of modern orthodoxy are questions about the value of faith and of medical science. Magid notes that *Pikuaḥ Nefesh* is not one-fit all in application and suggests, at least in my reading of him, that it was not relevant to the COVID-19 crisis. Rejecting religious minimalism, he faults modern orthodox Jews for inconsistency; they trust science and do not really believe in the *doxa* and norms that define orthodox Judaism like the Haredim do. Magid’s critique confirms my own doubts about the universality of *Pikuaḥ Nefesh* and my own sense of Haredi community as *paideic nomos* in which people “live in a different spiritual orbit.” On changing patterns of Haredi leadership-authority and attitudes towards science and technology in general and in relation to COVID-19 in particular see the essays at the website of the Katz Center for Advanced Judaic Studies by Ayala Fader, Samuel Heilman, and Shaul Magid at *The Haredi Moment: An Online Forum*, Part 1 (12 April 2021), <https://katz.sas.upenn.edu/resources/blog/haredi-moment-online-forum-part-1> (accessed on 1 June 2023). For its part, barely or unmentioned at the conservative and consistently Haredi-apologetic *Tablet Magazine* are mundane things like rates of hospitalization and death, and the burden placed upon society at large. For a list of items relating to COVID-19 at *Tablet*, see Zachary Braiterman (2021).
- 19 Berger and Luckman, *The Social Construction of Reality*, pp. 168–70, 174.
- 20 Samuel Heilman, *Defenders of the Faith*, pp. 42, 45–46, 277–78, 299.
- 21 Raucher and Seideman (2021). These remarks reflect upon the stampede at Mt. Meron in Israel during the mass pilgrimage commemorating the Lag Ba’Omer holiday in which forty-five men and boys were crushed to death in April 2021. With an eye on Haredi semi-autonomy in Israel and violations of COVID-19-related public health protocols, attention in the secular press and government turned immediately to the lack of public safety crowd control protocols at the site, which is self-governed by a patchwork of Haredi institutions.
- 22 See Menachem Friedman (1991, p. 12); William Helmreich (1982, pp. 310–13, 329); Shaul Magid (2014, pp. 99, 104–5). Deutsch and Casper (2021), especially chapter 3, “The Politics of Poverty”.
- 23 The takeaway from the recent roundtable “Haredism and the Future of Judaism” sponsored by *Jewish Currents*: <https://www.youtube.com/watch?v=gbxoYO122y8> (accessed on 1 June 2023) is complex. On the one hand, the scholars and activists conclude that Haredi society is not a monolith, that there are multiple modernities, and that Haredi society emerges out of modernity and is part of modernity, that there is crisis and change. On the other hand, the roundtable confirms the notion that Haredi society is something of an enclave fortress community, increasingly in conflict with city and state authorities. Also observed is the economic squeeze on Haredi society.
- 24 William Helmreich (1982), see especially the conclusions in chapter 11.

- 25 For the most influential conservative Jewish philosophers writing today, see Novak (1992, 2005); Leora Batnitzky (2013), especially the author's agreement in the conclusion with the ruling of Justice Scalia's ruling in Board of Education of Kiryas Joel Village School District v. Grumet, 512 U.S. 687. From the anti-liberal left, an anti-statist impulse and nostalgia for the life-world of Talmud inundates works by Daniel Boyarin (1995, 2015). Lastly, the Textual Reasoning circle of Jewish philosophers and text scholars that surfaced at the end of the twentieth century under the influence of Levinas and "post-liberalism" never confronted in an agreed upon way myriad problems in Jewish texts and traditions relating especially to gender, xenophobia, and violence. See Kepnes et al. (1998).
- 26 Samuel Heilman (2006, p. 11). *Sliding to the Right: The Contest for the Future of American Jewish Orthodoxy*.
- 27 Exemplary is the founding giant of the new, postwar Haredi Judaism in Israel, the Hazon Ish, whom Heilman cites as saying. "Those who testify that they have not tasted the sweetness of extremism testify thereby that they are bereft of faith in the essentials of the religion." Samuel Heilman, *Defenders of the Faith*, p. 38. While I avoid the term fundamentalism, there is something akin here to the pugilistic style and belligerence of Protestant Fundamentalism in America that emerged in the 1920s against secular society and liberal religion. See George Marsden (2006, p. 4); Wood and Watt (2014). See Adam D. J. Brett (2022), chapter 1.
- 28 Samuel Heilman, *Sliding to the Right*, p. 128; Ayala Fader, *Hidden Heretics*, p. 16; Shaul Magid "'America Is No Different,' 'America Is Different'—Is There an American Jewish Fundamentalism? Part I. American Habad," pp. 73–74.
- 29 Benjamin Brown (2014), see especially pp. 256–57, 289. See Hazon Ish (2008, pp. 216–30). These last pages of the last major chapter ("Imagination and Intellect") of a text that insists on the supreme value of detailed, constant, exclusive study of Halakah invoke colorful stories (aggadot) about the rabbis of the Talmud as having mastered many and varied medical arts and procedures.
- 30 Samuel Heilman, *Sliding to the Right*, p. 11; See Samuel Heilman, *Defenders of the Faith*, pp. 352–53. On more recent shifts to the hard ethno-nationalist political right in the United States and Israel as Haredi Jews move into the public sphere, see Ayala Fader (2021); Samuel Heilman (2021). See also Joshua Shanes (2021).
- 31 Reno (2020). The conservative-religious views here mirror the contempt for bare life and state sovereignty expressed by G. Agamben and others writing under the rubric of continental philosophy. Including a critical response by Jean-Luc Nancy to Agamben, see Castrillón and Marchevsky (2021).
- 32 In the same vein, see Michel Foucault (1973, pp. 25–26). Foucault writes that the experience of the epidemic "could achieve full significance only if it was supplemented by constant, constricting intervention. A medicine of epidemics could exist only if supplemented by a police: to supervise the location of mines and cemeteries, to get as many corpses as possible cremated instead of buried, to control the sale of bread, wine, and meat, to supervise the running of abattoirs and dye works, and to prohibit unhealthy housing; after a detailed study of the whole country, a set of health regulations would have to be drawn up that would be read 'at service or mass, every Sunday and holy day', and which would explain how one should feed and dress oneself, how to avoid illness, and how to prevent or cure prevailing diseases: These precepts would become like prayers that even the most ignorant, even children, would learn to recite.' Lastly, a body of health inspectors would have to be set up that could be 'sent out to the provinces, placing each one in charge of a particular department'; there he would collect information about the various domains related to medicine, as well as about physics, chemistry, natural history, topography, and astronomy, would prescribe the measures to be taken, and would supervise the work of the doctor. 'It is to be hoped that the state would provide for these physicians and spare them the expense that an inclination to make useful discoveries entails.'"
- 33 Michel Foucault (1977a, p. 198). *Discipline and Punish: The Birth of the Prison*. Translated by Alan Sheridan.
- 34 On the influence of surrealism on Foucault's thinking, especially in relation to the "spiritual," see Jeremy Carrette (1999), chapter 3. Regarding Foucault as a reader of literature, the attention to Bataille, Beckett, Blanchot, Borges, Artaud, Klossowski, and Deleuze, see Michel Foucault (1977b); see there especially Michel Foucault, "Hommage a Georges Bataille," translated as "Preface to Transgression" (pp. 29–52). See also the reading of the surrealist painter René Magritte in Michel Foucault (1983).
- 35 Michel Foucault, *Discipline and Punish*, p. 198. On the sharp inclination of obedience and sovereign power towards the value of life over death, see Michel Foucault (2003, pp. 95, 246–48).
- 36 Michel Foucault, *Discipline and Punish*, p. 197.
- 37 Jeremy Carrette, *Foucault and Religion*, p. 49.
- 38 Jacob Neusner (1988), chapter 5, especially pp. 222–29; Mira Balberg (2017).
- 39 On the aggressive set-apartness plus the social contagion of what he called the "negative cult," see Emile Durkheim (1995), book III, chapter 1.
- 40 Jacques Derrida (1981, p. 95). *Dissemination*. Translated by Barbara Johnson.
- 41 *Dissemination*. Translated by Barbara Johnson, pp. 97–98.
- 42 *Dissemination*. Translated by Barbara Johnson, pp. 125, 142.
- 43 *Dissemination*. Translated by Barbara Johnson, p. 128.
- 44 *Dissemination*. Translated by Barbara Johnson, pp. 99–100.



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