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**Religious Minorities' Resistance to State Mandates:
A Cautionary Tale of Authority and Power ***

*La resistenza delle minoranze religiose ai mandati statali:
Una storia ammonitrice su autorità e potere **

ABSTRACT: Public emergencies often heighten tensions between liberal democratic commitments to rights, pluralism, and participation, and the perceived necessities of collective safety. During the COVID-19 pandemic, governments worldwide imposed sweeping public health mandates that frequently constrained religious practice. Yet this familiar narrative does not hold uniformly. This article examines Lakewood, New Jersey, as a case in which a powerful religious minority - the Haredi (ultra-Orthodox) Jewish community - was able not merely to resist but, at times, to subordinate governmental and public health authority to religious authority. Drawing on political theory and sociology, the article distinguishes among three forms of authority: *de jure* (legal-rational), epistemic (expertise-based), and traditional or religious authority. It argues that conflicts during the pandemic arose from the interaction of these distinct sources of legitimacy. Lakewood's entrenched traditional religious authority and limited effective enforcement of state mandates is attributed to decades of demographic growth, dense communal institutions, political mobilization, and geographic concentration. Weak and internally contested public health expertise early in the pandemic further

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undermined secular authority, creating space for religious leaders to assert primacy. The Lakewood case challenges assumptions that emergencies necessarily erode religious liberty, instead suggesting that empowered religious minorities may consolidate authority during crises. The article concludes by emphasizing the importance of cooperation and negotiation among legal, epistemic, and religious authorities to avoid both public health failure and long-term political fragmentation.

ABSTRACT: Le emergenze pubbliche spesso acuiscono le tensioni tra gli impegni liberaldemocratici a favore dei diritti, del pluralismo e della partecipazione e le necessità percepite di sicurezza collettiva. Durante la pandemia di COVID-19, i governi di tutto il mondo hanno imposto ampie misure di sanità pubblica che hanno spesso limitato la pratica religiosa. Eppure, questa narrazione familiare non è uniforme. Questo articolo esamina Lakewood, nel New Jersey, come un caso in cui una potente minoranza religiosa - la comunità ebraica Haredi (ultraortodossa) - è stata in grado non solo di resistere, ma, a volte, di subordinare l'autorità governativa e sanitaria pubblica all'autorità religiosa. Attingendo alla teoria politica e alla sociologia, l'articolo distingue tre forme di autorità: *de jure* (legale-razionale), epistemica (basata sulla competenza) e autorità tradizionale o religiosa. Sostiene che i conflitti durante la pandemia sono sorti dall'interazione di queste distinte fonti di legittimità. La radicata autorità religiosa tradizionale di Lakewood e la limitata efficacia nell'applicazione delle misure statali sono attribuite a decenni di crescita demografica, dense istituzioni comunitarie, mobilitazione politica e concentrazione geografica. La debolezza e la contestazione interna delle competenze in materia di salute pubblica all'inizio della pandemia hanno ulteriormente indebolito l'autorità laica, creando spazio per i leader religiosi per affermare il primato. Il caso Lakewood mette in discussione l'ipotesi secondo cui le emergenze erodono necessariamente la libertà religiosa, suggerendo invece che le minoranze religiose rafforzate possano consolidare l'autorità durante le crisi. L'articolo si conclude sottolineando l'importanza della cooperazione e della negoziazione tra autorità legali, epistemiche e religiose per evitare sia il fallimento della sanità pubblica sia la frammentazione politica a lungo termine.

The risks posed to fundamental rights and freedoms enjoyed by citizens of liberal democratic nations tend to rise in times of emergency. The contending values of pluralism, inclusivity, and participation that are also intrinsic to liberal democracy are vulnerable to being sacrificed at the altar of public health, amid fear or even panic among members of electoral majorities and their representatives. This phenomenon was



observed during the initial months of the COVID-19 pandemic, when state and national governments in the United States and other countries instituted limits on social gatherings for any purpose, including religious ones, in an attempt at limiting the spread of a highly contagious and then largely unknown illness. In New Jersey, for example, more than one hundred executive orders pertaining to COVID-19 were issued by the state's governor, Phil Murphy, between March 9, 2020, when he first declared a state of emergency, and early January 2022¹.

But this familiar story did not hold equally true in all places. Some communities with especially prominent and powerful religious groups were able to resist government mandates, for better or worse. Lakewood, New Jersey, serves as a case study of a religious minority group *not* feeling a disproportionate effect - but, rather, threatening the health and well-being of a majority. The large Haredi (ultra-Orthodox) Jewish community in Lakewood was, in fact, not so much tolerated or accommodated, as able to resist or defy government mandates that conflicted with their religious practices and beliefs. How could such a situation develop, turning a common narrative on its head? The political size and power of the Haredi community, established over decades of growth, combined with the political decentralization of the United States and the State of New Jersey in particular, created a situation unlike many in other states and countries - a situation in which religious authority was able to resist the decrees of the state.

What is authority? One of the enduring confusions in political theory is that there are many kinds of authority, numerous diverse ways in which the word is used. There is, for instance, *legal* authority: the type we think of when we discuss public decision-making authority and those who hold it. The first sense of authority may be defined as "rightful power," in the words of Sebastian de Grazia². Another way to conceive of this authority is as the power to take an action or exert *control* (or to command another to take an action) without needing to justify one's claim to do so. Authority can, of course, be challenged or questioned. But absent such challenge, and absent coercion, authority is legitimate power. This type of authority may be thought of as *de jure* authority -

¹ D. HAN, *Murphy looks to extend public health emergency waivers as Covid cases soar*, in *Politico*, Jan. 3, 2022.

² S. DE GRAZIA, *What authority is not*, in *The American Political Science Review*, Vol. LIII, No. 2 (June 1959).



authority granted by law, proclaiming that someone has a right to do something³.

Then there is *epistemic* authority: the type of authority we think of when we consider people regarded with profound respect because of their knowledge and expertise regarding a subject. In this sense an authority is "one who, while lacking most of the specific attributes of power as force, makes recommendations which cannot safely be ignored because they are usually right," in the words of John H. Schaar. One who speaks "with authority" knows whereof he or she speaks. This type of authority has also been called *de facto* authority, in that it is acknowledged in practice, and suggests one's "ability [...] to get his proposals accepted"⁴. This sort of authority is pre-political - the kind of power attributed in early human communities to those persons thought to possess knowledge or wisdom essential to the group's survival. In modern society, epistemic or *de facto* authority is often codified into the language and trappings of academic or technical expertise. Thus, an esteemed professor of criminal justice may be an authority on the police department, even if he lacks the authority to make an arrest. A police officer himself may be regarded as an authority on the force as well as a bearer of its authority, but the former label would only be used outside the context of the force, such as when he gives a lecture to a student group, or after retirement. Even though he is not a scholarly specialist on the department, he will be considered an authority on how it operates based on his direct experience working with the force.

The most influential categorization of authority in social science was by Max Weber. Weber identified three types of legitimate authority: legal-rational, traditional, and charismatic. *De jure* authority is like Weber's legal-rational authority, while *de facto* authority corresponds to Weber's charismatic authority⁵. Both types of authority - as control and as expertise - are abundant in today's world. Modern societies are replete both with political and legal authorities and with epistemic authorities, experts in everything from cupcake-baking to wind shear to brain surgery. And yet, many political theorists and social commentators have

³ R.S. PETERS, *Symposium: Authority*, in *The Aristotelian society*, Harrison and Sons, Ltd., London, 1958.

⁴ J. SCHAAR, *Legitimacy in the modern state*, Transaction Publishers, New Brunswick, NJ, 1981.

⁵ M. WEBER, *The theory of social and economic organization*, Free Press, New York, 1997.



noted that modern societies seem, at the same time, plagued by a diminished sense of authority in another sense - a sense more akin to Weber's traditional authority. This is a more abstract authority, but one which contributes to making meaning in the world. This kind of authority does not attach to specific people the way our first two kinds are. For instance, Hannah Arendt says that "authority has vanished from the modern world," and claims that "a constant, ever-widening and deepening crisis of authority" has accompanied the development of the modern world"⁶. Frequently associated with this diminished sense is a frayed connection with other people and with a sense of stability and security. Legal scholar Joseph Vining writes of something that connects us to the past, which links us with a "unity" in the world, tied to a "religious problem" and, ultimately, a "question of meaning." Vining suggests that this kind of authority "can order us, order our minds and actions"⁷. If legal and epistemic authority are still present, but some other intangible yet important sense of authority is on the wane, then clearly this third type of authority is something different from the first two.

The case study offered by the COVID-19 pandemic in Lakewood, New Jersey, entails three groups - political officials, public health professionals, and religious leaders - laying claim to these three kinds of authority, and conflicting because of their various sources of authority. Officials representing the state possess *de jure* authority. Public health professionals lay claim to epistemic authority, as "authorities on" pandemic response. Religious leaders, meanwhile, claim and embody the third kind of authority, one plainly rooted not in state power or scholarly expertise, but in tradition and a claimed connection to higher, divine forces. States and localities, embodying *de jure* and epistemic authority, determined which services were essential for life to continue during COVID-19. In New Jersey, Governor Murphy issued the plethora of executive orders, and most people complied. However, some communities challenged these orders more than others; Lakewood became a focal point for resisting mandates. In March and April 2020, the town gained attention for its high case and death rates, including five rabbis among the first 267 deaths statewide⁸. Likewise, two years later,

⁶ H. ARENDT, *What is authority?*, in *Between past and future: Eight exercises in political thought*, Penguin Books, New York, 1978.

⁷ J. VINING, *The authoritative and the authoritarian*, The University of Chicago Press, Chicago, 1986.

⁸ K. WALL, *5 rabbis from Lakewood among NJ's coronavirus fatalities: reports*, in *Patch*,



the town had some of the lowest vaccination rates in the state; only 40 percent of people over the age of five were fully vaccinated against COVID-19 as of April 2022⁹.

To be sure, resistance to restrictions and vaccine mandates extended beyond Jewish communities. Many religious groups, including the Christian Right, opposed limits on gatherings, viewing them as unconstitutional infringements on their religious authority that stood outside of secular decrees. In addition, it is important to note that religious authority and secular governmental and medical authority are not necessarily always in conflict. As Alexander Yendell, Oliver Hidalgo, and Carolin Hillenbrand argue, it is important not to underestimate “the actual relevance, potential and resources which religious communities have at their disposal to successfully fight the SARS-CoV-2 virus”. A major component of such resources, they add, is the “energy of religious faith, which provides comfort and orientation, including its independence from all worldly pressures” at a time when people are feeling especially distressed and insecure in the world¹⁰. A more practical advantage offered by religious authority is its access to long established and highly trusted communication networks within communities, which governmental and public health authorities can borrow when they need to get a message out quickly and efficiently.

Therefore, there is considerable potential for collaboration between the several types of authority in a time of crisis, such that they serve as partners rather than adversaries. This is what happened in some Ultra-Orthodox Jewish communities just over a year before the onset of the pandemic; in the face of a measles outbreak in the fall of 2018, several prominent ultra-Orthodox rabbis in Brooklyn “urged followers to vaccinate their children, and some schools and synagogues [...] said that only those who are vaccinated may attend”¹¹. Students were legally exempted from vaccination on religious grounds, but that did not

March 31, 2020, <https://patch.com/new-jersey/lakewood-nj/5-rabbis-lakewood-among-njs-corona-virus-fatalities-reports>.

⁹ T. TULLY, S. SCHORR, *Why this coastal county has the highest Covid death rate in its state*, in *The New York Times*, April 10, 2022.

¹⁰ A. YENDELL, O. HIDALGO, & C. HILLENBRAND, *The role of religious actors in the Covid-19 pandemic*, ifa-Edition Kultur und Außenpolitik, Stuttgart, 2021, <https://doi.org/10.17901/akbp1.10.2021>.

¹¹ D. YELLIN, *Will measles outbreaks spread to North Jersey? Infections linked to those who traveled abroad*, in *North Jersey Record*, Nov. 14, 2018.



prevent the Jewish religious figures from using their authority to encourage cooperation with government and public health measures in the face of a highly contagious illness. Yet, the story of Lakewood's Haredi community during the pandemic was marked more by defiance than partnership; perhaps due to its insular status, and despite its otherwise complex relationship with the local secular government, the community turned inward at a time when cooperative sharing of authority would have been beneficial. The defiance of COVID mandates by rabbis and other community members cannot be interpreted as a wholesale rejection of governmental authority, especially given yeshiva students' reliance on public aid¹². Rather, it can be seen as a choice to elevate religious authority above the secular when the two come into direct conflict.

How, then, did the Haredi find themselves in a position where it was politically feasible for them to subjugate the authority of public health and government officials to their religious leaders, without facing law enforcement or fiscal dire consequences? After all, despite paying a high price in loss of life and widespread illness, the religious community was otherwise not sanctioned or punished for its noncompliance. The answer lies in the relationship between religious and secular authority built up over decades preceding the COVID pandemic, as well as in the geographic and demographic particularities of this town.

According to the common saying, geography is destiny; in this case, geography intensified the strength of religious authority in Lakewood. As law professor Michael Lewyn notes, most ultra-Orthodox Jews in the United States lived within the confines of New York City until the latter half of the 20th century. As housing prices in the city climbed, the ultra-Orthodox - like so many New Yorkers of other faith backgrounds - moved out beyond the city limits to suburban and exurban areas, lured by the promise of more space and lower costs¹³. In addition to Lakewood, a large Haredi community was established northwest of New York City, in the hamlet of Kiryas Joel, New York. Lakewood, a very fast-growing town near the Jersey Shore and the Pine Barrens region, has in fact been a Jewish center since the early 20th

¹² J. OLSEN, *Making sense of taxpayer cents: a look at Lakewood, New Jersey's unique school* in *Rutgers Journal of Law and Religion*, 2018, 19(3), pp. 323-354.

¹³ M. LEWYN, *Bringing Judaism downtown: smart growth policy for orthodox Jews*, in *University of Baltimore Law Review*, 2021, 51(1), pp. 37-72.



century¹⁴. According to a recent study of the town by Nisan Mayer Novack, Jewish immigrants began settling in the area and working in the local poultry business as early as the 1880s. By the early 20th century, Novack writes,

“The Jewish business sector would continue to grow and thrive in Lakewood, offering all sorts of products including more dry good stores, butchers, grocers, tailor shops, furniture stores, paint stores, jewelry, and shoe repair. [...]. The city became a popular regional destination for Jewish vacationers from the New York, Philadelphia, and other metropolitan areas around the northeast”¹⁵.

The town’s transformation accelerated rapidly in 1943 with the founding of Beth Medrash Govoha (BMG), now the world’s second-largest yeshiva¹⁶. The institution has deeply influenced local politics: previous mayors were alumni, a committee tied to BMG issues election endorsements, and incoming students are expected to register to vote¹⁷. The school was even awarded more than \$13 million in taxpayer funds in 2013 to support the construction of new campus facilities including a library; the grant was ultimately overturned by a state court after the American Civil Liberties Union sued on separation of church and state grounds, in *Am. Civil Liberties Union of N.J. v. Hendricks*, 445 N.J. Super. 452, 458 (App. Div. 2016). But recent shifts in Supreme Court jurisprudence on the Establishment Clause of the First Amendment suggest the case could come out differently if the issue were raised today under a federal constitutional challenge¹⁸. Regardless, the fact that the grant was awarded in the first place demonstrates the community’s power in Lakewood’s political realm.

¹⁴ **M. DI IONNO**, *How Lakewood became a worldwide destination for Orthodox Jews*, in *NJ Advance Media*, May 7, 2017, https://www.nj.com/news/2017/05/how_lakewood_became_a_worldwide_destination_for_or.html. See also **D. LANDES**, *How Lakewood, N.J., is redefining what it means to be Orthodox in America*, in *Tablet*, June 5, 2013.

¹⁵ **N.M. NOVACK**, *Lakewood in the Pines: Anatomy of an emergent community*, Rutgers the State University of New Jersey, School of Graduate Studies, ProQuest Dissertations & Theses, 2022.

¹⁶ **C. MANDELL**, *History of Lakewood* (<https://www.lakewoodnj.gov/history.php>).

¹⁷ *BMG’s Roshei Yeshiva strongly encourage voter registration ahead of state primaries*, May 20, 2025 (<https://lakewoodalerts.com/bmgs-roshei-yeshiva-strongly-encourage-voter-registration-ahead-of-state-primaries/>).

¹⁸ **J. HAYNES**, *Donald Trump, the Christian Right and COVID-19: The politics of religious freedom*, in *Laws* 10: 6, 2021 (<https://doi.org/10.3390/laws100100>).



BMG is also only the most prominent of more than one hundred Jewish schools and yeshivas now located in the town, along with more than eighty synagogues. The remarkable growth of the Haredi community in Lakewood has been “sustained by the retention of alumni” of BMG, along with a high birthrate and continued migration to the town for economic opportunities, according to Novack¹⁹. The high concentration of members of the community has led to the formation of

“many local and culturally specific institutions, as well as a great plethora of local social infrastructure including private emergency services, food banks, community funded financial assistance services, and a religious civil court,”

Novack adds, making it “an example of an emergent community based on the community structure of *Gemeinschaft* - a group of people living in proximity [who] have mutual social relations characterized by shared values”²⁰. *Gemeinschaft*, a sociological term used to describe strong bonds of sentiment and kinship, is also associated with traditional authority. As Haidt and Graham note, in discussing the work of German sociologist, economist, and philosopher Ferdinand Tönnies,

“Traditional authority is embedded in personal relationships: people feel respect for the people in positions of authority; they owe loyalty and obedience to them, and in return can expect protection and guidance from them”²¹.

In the years leading up to the COVID pandemic, Lakewood became a place where the ultra-Orthodox community expected protection and guidance not in the first place from the state or federal government, but from religious authority.

Moreover, in recent years, the Haredi have attempted to expand into other towns around Lakewood but have faced often stringent resistance, Lewyn notes, with neighboring municipalities using zoning measures and informal pressures to push back - possibly in contravention of federal law, in the form of the Religious Land Use and Institutionalized Persons Act, Pub. L. 106-274, 42 U.S.C. § 2000cc et seq

¹⁹ N.M. NOVACK, *Lakewood in the Pines*, cit..

²⁰ N.M. NOVACK, *Lakewood in the Pines*, cit.

²¹ J. HAIDT, J. GRAHAM, *Planet of the Durkheimians, where community, authority, and sacredness are foundations of morality*, in J. JOST, A.C. KAY, H. THORISDOTTIR (Eds.), *Social and psychological bases of ideology and system justification* (pp. 371-401), Oxford, New York, 2009.



(RLIUPA). Neighboring towns are not necessarily motivated by religious prejudice, as practical considerations can also come into play. The main concern of many town managers and residents may be tax-related, Lewyn points out, in that the Haredi properties are more likely to be tax-exempt as religious institutions, thus reducing the town's tax base and cutting into the resources available to fund public schools in particular²². Furthermore, a New Jersey statute, §18A:39-1: Transportation of Pupils Remote from School, requires towns to pay for busing to private schools for any student who lives between two and twenty miles from their school. This can amount to a considerable expense, running into millions of dollars per year, given the considerable number of Haredi families who live at some distance from the yeshivas their children attend. While the state reimburses towns to an extent, the state's contribution is not adequate to cover much of the expense. Yet, even if these neighboring towns' actions are in violation of RLIUPA, the time and expense required to litigate the matter can be an incentive to remain in the established communities where the Haredi have already achieved political power. This has the effect of further concentrating their strength and the weight of their authority in relation to secular governmental and public health officials.

One additional factor contributed to the Haredi community's ability to effectively exert its religious authority in the face of governmental mandates, but it concerns the other authorities rather than the religious community itself. Particularly in the early days of the COVID pandemic, the quality, clarity, and strength of the authority (in the sense of authority as expertise) coming from the medical establishment was weak. The fact that public health experts seemed to be (and, in fact, were) less than certain about the provenance of, nature of, and risks posed by the new virus provided an opening for religious authority to assert itself by comparison. As Yendell, Hidalgo, and Hillenbrand put it,

"science and politics in this context [...] produced a series of very ambiguous, to some extent even highly contradictory statements and findings (including statistics which can be interpreted divergently) [...] causing] massive uncertainty among quite a few people"²³.

²² M. LEWYN, *Bringing Judaism downtown*, cit., pp. 37-72.

²³ A. YENDELL, O. HIDALGO, C. HILLENBRAND, *The role of religious actors*, cit..



Had there been more agreement and confidence among experts, the authority conveyed by both the public health and political authorities would have carried more weight and, quite possibly, diminished the authority of religious figures and institutions by contrast.

In the end, the Lakewood experience during the COVID pandemic demonstrates that public health emergencies do not always necessarily result in a long-term reduction of or infringement upon religious liberty. On the contrary, they may serve as an opportunity for religious minority groups to flex their power and even expand it, in the sense explored with respect to government actors and other groups in *The Shock Doctrine* by Naomi Klein²⁴. Klein argued that neoliberal economic policies are often imposed on societies during times of crisis, when populations are too disoriented or weakened to resist. Klein traces this pattern to the ideas of economist Milton Friedman and the Chicago School of Economics, arguing how these policies were implemented in places like Chile under Pinochet, New Orleans after Hurricane Katrina, and Iraq after the 2003 U.S. invasion. The experience of Lakewood during the COVID-19 pandemic suggests that empowered religious minority groups may also be situated to use a public health disaster to further cement their authority at the expense of the health and well-being of the public, with the majority potentially suffering negative consequences. While it may not be their goal, religious minority groups living in religious enclaves can benefit from the moment, in other words, and display the power of their authority to resist government mandates; in the process, such communities may further secure their future security from majority infringements. As Novack notes, Lakewood has not only become one of the largest cities in New Jersey; it is also one of the only places in the United States “that can be considered a ‘Jewish city’ in terms of its size and cultural paradigm”²⁵.

From this angle, the Lakewood case demonstrates the importance of bringing powerful religious minority groups on board with state- and federal-level government initiatives - of attempting to harmonize religious, traditional authority with legal and epistemic authority - and of keeping them on board by navigating disagreements in the short term. To not do so - to fear cooperation with the group’s leaders, or to shy away

²⁴ N. KLEIN, *The shock doctrine: the rise of disaster capitalism*, Henry Holt, New York, 2008.

²⁵ N.M. NOVACK, *Lakewood in the Pines*, cit..



from acknowledging the conflict that exists between the various kinds of authority - is to court continued noncompliance with public health mandates. That could result in not only undesirable short-term outcomes, but an equally undesirable larger conflict: the further hardening of the political power and isolation of the minority group, until cooperation is even harder to come by.



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