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**Instant Responsa: Towards Halakhic Realism?**

This article seeks to evaluate the recently developed phenomenon of halakhic responsa that are extremely terse and lack argumentation, or contain minimal, usually informal argumentation. These responsa range from Rabbi Ḥayim Kanievsky's laconic responsa (a.k.a. "postcard responsa") to the "S.M.S. responsa" by Rabbis Shlomo Aviner and Shmuel Eliyahu. Both are parts of a phenomenon that can appropriately be termed "instant responsa." This article analyzes the nature of this phenomenon, the changes that it has brought about in halakhic discourse, and the meaning of these changes for understanding the process of halakhic decision-making and the boundaries of the Halakhah. As part of this analysis, the article also investigates the degree to which the theoretical model of Legal Realism, which depicted detailed formal legal reasoning as an artificial covering over the real considerations that enter into judicial decisions, can be applied to the Halakhah. In doing so, it offers an interpretation of the relevant aspects of this model: the boundaries of the law and the nature of the judicial process.

Legal Realism is usually considered to be an innovation of American legal scholars such as Karl Llewellyn (1893–1962) and Jerome Frank (1889–1957) but was actually formulated about two decades earlier by the Italian social scientist Vilfredo Pareto (1848–1923). In the context of the Halakhah, Hanina Ben-Menahem (born 1944) has insisted, more than any other scholar, that talmudic law is "governed by men, not by rules," a phrase that is strikingly similar to one of Llewellyn's. Ben Menahem nevertheless rejects attempts to characterize him as a legal realist about the Halakhah. Ostensibly, "instant responsa" strengthen the impression that halakhic decisions are made in the same intuitive and informal way as those rulings, while the formal argumentation of the traditional rulings is only added as cover. One might think that this phenomenon supports the contention that the legal realists' understanding of law can be applied to the Halakhah, or at least to modern Halakhah, without much qualification. This article concludes, however, that doing so would be misguided and that the indiscriminate application of legal realist theory (that was developed as a model to analyze modern legal systems) to the Halakhah leads to our missing certain unique elements of Jewish religious law. The article therefore offers a refined model of "halakhic realism," by the means of which we can offer a better interpretive analysis of the boundaries of Halakhah and the process of halakhic decision-making.