

HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

66 - DISGRACED RABBIS - PART 2

OU ISRAEL CENTER - FALL 2017

- We saw in Part 1 that, although we do not expect our Torah teachers and leaders to be perfect, we expect the highest standards from them.
- When these teachers behave in an inappropriate manner, there is a serious question as to whether we may continue to learn from their Torah.
- In some cases it may in theory be possible to 'filter' the teachings of such people in such a way as to take the good whilst discarding the negative. However, in most cases this will not be possible.
- Although a Torah teacher must be removed once it is clear that they have behaved inappropriately, unsubstantiated rumors are not ground for dismissal.
- The laws of lashon hara have to be carefully and sensitively applied so as to avoid character assassination at the same time as protect individuals and the public who may be at risk.

In this shiur we will look at:

- WHY learning the Torah of disgraced rabbis could be a problem.
- Whether this applies to writings or only to personal contact.
- Whether this applies to Torah which was taught before the offending behavior.
- Whether this applies after the individual has done teshuva, and how such teshuva can be assessed.
- Whether the offending individual can ever be reinstated to their former leadership position.
- Some contemporary rulings.

A] THE REASON FOR THE PROHIBITION

<p>1. הא בגדול הא בקטן - והא דריש פ' צתרא דמו"ק (י.) דהו סנו שומענייה דשמתייה רב יחודה - איכא למימר דקטנים הוו דגרסי קמיה וחיישי' דלמא מימשכי</p>

תוספות חגיגה טו:

Tosafot understands that the concern is that the person learning from the inappropriate teacher will be 'dragged after him' in a negative way.

If the concern is negative influence on the unsuspecting student, this would impact on the following scenarios:

- Is the subject matter studied an area in which the teacher is suspect?
- Is there any personal contact between the student and the teacher?
- What is the nature of this student?

Others understand that concern is more essential in the status of the material being taught. R' Simcha Zissel Ziv Broida (the Alter of Kelm) writes in *Chochma U'mussar*, based on the teachings of R' Yisrael Salanter that if the teacher has an unrefined character his words are of no value whatever - אין תורתו תורה כלל. If so, it will make no difference if the student is more or less susceptible to influence or if the material is more or less liable to be misinterpreted by the teacher. It is simply not Torah!¹

1. Rav Moshe Feinstein discusses whether a Conservative Rav could be invited to give shiurim. He answers (i) that we are clearly concerned that the Torah may not be correct; but (ii) even if it is technically correct, we may not learn it, based on the Gemara in Moed Katan (see Part 1) which ruled that, even if we need the Rabbi (ie his Torah is good), we can't use him. Rav Moshe is concerned that slight nuances in tone can communicate the wrong message.

B] WRITINGS OF DISGRACED RABBIS

2. אמנם יקשה מאוד דרבינו במורה נבוכים נראה שלמד מספרי חכמי עכו"ם ובראש ספרו שם הביא מקרא זה שמצא ר"מ לדרוש להתיר ללמוד מאחר עיין שם, ומפי אמ"ו הגאון ז"ל שמעתי דיש לחלק בין למוד מפיו של רשע ללמוד מתוך ספר ממנו. דמתוך ספר אדם גדול יש לברור הטוב מהרע אבל מפיו שחיבור עם רשע רע וגורם רעה והשחתה לאדם ודייק כן אם הרב וכו' יבקשו תורה מפיהו ואם לאו אל יבקשו תורה מפיהו דייקא מפיהו ובגמ' מקשה ור"מ היכא למד מפומא דאחר ... ובוזה יש ליישב דעת ודרך רבינו ז"ל שידע בנפשו וקים ליה לברור האוכל מתוך פסולת מספריהם.

דברי ירמיהו הלכות תלמוד תורה פרק ד

Rav Yirmiyahu Low (19C Moravia) draws a distinction between learning from the teacher personally - which could be more dangerous - and reading their written works, where one can be more discerning.

3. וכמו דאז"ל דאסור ללמוד תורה מרב שאינו הגון כך אסור ללמוד תורה שנכתב או נדפס ממי שאינו הגון שבלי ספק פוגם

שו"ת שבט הלוי חלק ג סימן קמה

Rav Wosner strongly rejects² this and rules that written works of an inappropriate teacher are also prohibited. As noted above this many follow the view that such teachings are inherently invalid.

4. איבו הוה מנכית ואכיל פת אבי מצרי. אמר להו רבא, ואיתימא רב נחמן בר יצחק, לא תשתעו מיניה³ דאיבו, דקאכיל לחמא דארמאי.

עבודה זרה לה:

The Gemara elsewhere gives the example of a rabbi who ate bread made privately⁴ by non-Jews (which is rabbinically prohibited). Rava rules that the Torah of that Rabbi may not be taught.

5. לא תשתעו מיניה דאיבו. פירשו הגאונים ז"ל לא תזכירו שמועה משמו צבית המדרש. וככי דייק לישנא לומר מידה כנגד מידה כי הוא מזלזל בדברי חכמים ז"ל ותקנותיהם ולכן אין מקלסין דבריו צבית המדרש

חידושי הריטב"א שם

The Ritva explains that since this teacher did not take rabbinic halacha seriously, he may not be quoted as a rabbinic source.

6. משמע שאיבו היה חכם רק יען שאינו נוהג על פי חכמים ועובר על גזירת בד אינו נחשב כחכם לומר דבר שמועה בשמו וקו בן בנו של קו שלא לומר דבר שמועה מפי איש שהוא מכת חדשים שעוברים ענ כמה גדרים וסיגות אך מכל מקום נראה שמוותר לומר גוף הדבר בשם איש שלא נודע שמו וכן משמע לשון רשבא וזל יען שאינו נוהג על פי חכמים ועובר על גזירת בד אינו נחשב כחכם לומר דבר שמועה בשמו עכל. היינו שלא להזכיר שמו שיהיה זכר צדיק לברכה בהזכרת שמו על תורתו אבל כיון שאומר שמעתי מאיש אחד הגם שלא הוה שאומר דבר בשם אמרו שאינו מזכיר שמו כמו באסתר שאמרה בשם מרדכי להביא גאולה בעולם עכפ אינו מתלבש בטלית של אחרים ואינו עובר על לא תגזל דל רק אומר כך שמעתי מפי איש אחד

שו"ת מחנה חיים חלק ג' אורח חיים סימן יא

R' Chaim Sofer (19C, Hungary) rules that ideas which are emet, but which come from inappropriate sources, may be quoted without mentioning the name of the author.

7. ודע, כי הדברים אשר אומר אותם באלו הפרקים, ובמה שיבוא מן הפירוש, אינם עניינים שחידשתים אני מעצמי, ולא פירושים שבדיתים, אלא הם עניינים מלוקטים מדברי החכמים - במדרשות ובתלמוד וזולתו מחיבוריהם - ומדברי הפילוסופים גם כן, הקדומים והחדשים, ומחיבורי הרבה בני אדם. ושמע האמת ממי שאמרה ... ואפשר, לפעמים, ששם האיש ההוא יכניס בלב מי שאין תבונה בו שזה הדבר נפסד, ויש בו תוך רע שלא ידעהו. ומפני זה ראיתי שלא לזכור האומר, הואיל וכונתי שתושג התועלת לקורא, ושנבאר לו העניינים הצפונים בזאת המסכתא.

שמונה פרקים לרמב"ם הקדמה

The Rambam, in the introduction to Shemone Perakim, insists that true ideas must be presented, no matter who said them. If the audience will reacted negatively due to the nature of the author of the idea, the idea should be presented anonymously!

2. This is also the psak of the Debrecener Rav. He is concerned (i) about people developing a connection to the writer and also (ii) about the ability of the reader to filter properly.

3. According to the amended text of the Mesorat HaShas.

4. Bread made commercially by non-Jews (pat palter) has a different din and may be eaten under many circumstances.

C] TORAH FROM BEFORE THE TEACHER WAS DISCREDITED

8. בדבר ניגונים שעשה אדם כשר שאחר זמן נתקלקל וסני שומעניה אם יש לנגנם על חתונות כ"ב אייר תשי"ט. ... בדבר אחד שהיה בן תורה בחזקת כשרות כמה שנים והוא מנגן שעשה ניגונים על שירי קדש ולשיר לחתונות והורגלו כמה בני תורה לזמר אותם בשמחות של מצוה ועתה אין שמועתו טובה שמכנס בחורים ובתולות יחד ומזמר לפניהם, ושואל כתר"ה אם מותר עתה לזמר בניגוניו שעשה תחלה כשהיה בחזקת כשרות.

לע"ד איני רואה בזה שום איסור מכיון שהם ממה שעשה בכשרותו. וראיה שהרי מצינו בתקנות יוחנן כהן גדול שנקראו על שמו ... ויש שסוברין שהוא זה ששימש שמנים שנה בכהונה גדולה ולבסוף נעשה צדוקי! ולבד זה הא מוכרח כן דהא כל המקור לאסור הוא לטעם הרמב"ם בס"ת שכתבו מין שישרף שהוא כדי שלא להניח שם לאפיקורסים ולא למעשיהם, והא זה ברור שבנעשה מומר אחר שכתב הס"ת היא כשרה ממש אף לקרות בו. והנה בעובדא זו שהסני שומעניה אינו בעניני כפירה אלא בעניני קלות ראש לנגן בפני בחורים ובתולות יחד שודאי אין להחשיבו כמין ואפיקורס ואף לא כמומר לתיאבון דהא רק לדבר אחד דקלות ראש ופריצות הוא עבריין לתיאבון מסתבר שעל אדם כזה אין למילף שיהיה דין וחיוב שלא להניח שם לו ולמעשיו. ואדרבה הא ברור שהס"ת שיכתוב איש כזה יהיה כשר....

וא"כ כ"ש הניגונים שעושה שרשארין לנגן בהם ואין להחמיר אף לבני תורה ובעלי נפש. ואם סני שומעניה גם לעניני כפירה אז הוא כדכתבתי לעיל שאלו שעשה מתחלה אין מקום להחמיר כלל ואף אלו שעשה אח"כ מסתבר יותר שאין לאסור כיון שאינם ענין קדושה אבל לבני תורה ובע"נ ראוי להחמיר.

שו"ת אגרות משה אבן העזר חלק א סימן צו

Rav Moshe deals here (in 1959) with the question of whether one is allowed to sing nigunim written by a rabbi who is considered to have acted inappropriately. Rav Moshe responds that:

- there is no problem with nigunim, even if written by someone who is a real heretic. This is certainly true of nigunim written before he became a heretic and even, meikar hadin, of those written after (although he recommends that those written by actual apikorsim should not be played by/to ba'alei nefesh)⁵.

- actual Torah - even a sefer Torah - written before the rabbi become a heretic is legitimate and may be learnt.

D] LEARNING TORAH AFTER THE TEACHER DOES TESHUVA

9. וכן הרב שאינו הולך בדרך טובה אף על פי שחכם גדול הוא וכל העם צריכין לו אין מתלמדין ממנו עד שובו למוטב

רמב"ם תלמוד תורה פרק ד הלכה א'

The Rambam permits learning from a disgraced teacher once they have done teshuva.⁶

10. הרב שאינו הולך בדרך טובה אף על פי שחכם גדול הוא וכל העם צריכים לו אין למדין ממנו עד שיחזור למוטב

שולחן ערוך יורה דעה סימן רמו

A similar wording is brought by the Shulchan Aruch.

- At what point will teshuva be considered sufficient?

11. [מומר] [משומד] שחזר בו וקבל עליו תשובה כשר מיד אף על פי שלא עשה עדיין (מהרי"ק שורש פ"ה)

רמ"א שולחן ערוך חושן משפט סימן לד סעיף כב

The Rema rules in the case of a 'mumar' - in this context a Jew who has publicly converted to another religion - that a verbal commitment to return to Judaism is sufficient, even though this has not yet been implemented.

12. ... משמע דוקא צוממר לעבודה זרה דינא הכי. אבל צלמת זה אינו. אלא טעמא דמיד שקיבל סגי דמסתמא יקיים. שהרי דין זה למד מהרי"ק (שורש פה) מכהן שנשא נשים בעצירה - דנודר ועוצד ויורד ומגרש (בכורות מה): וא"כ בכל מומר דינא הכי

ש"ך חושן משפט סימן לד ס"ק כא

The Shach learns that this applies generally to sinners. Once they commit to do teshuva we accept them. He understands that this is based on the Gemara dealing with a Cohen who has married a woman who is forbidden to him. Once he commits to divorce the woman he may serve in the Mikdash, even before the formal divorce has gone through.

5. Consider for example the very well known havdala niggunim written by reform rabbi Debbie Friedman by which are often sung in orthodox circles.

6. It goes without saying that the teshuva must be genuine. It will not always be easy to realistically assess this. Clearly, an apology alone will often be quite insufficient. Also, there may be some patterns of behavior that are almost impossible to really reverse.

13. ... איך נאמין בעצריין על קבלתו?! אלא ודאי נריך דבר מוכיח וניכר לכל שחזר. ולכך צכהן בקבלה לחוד אין כאן דבר הניכר שחזר ולכך בעינן גודר צפועל דהוא דבר המצטרף שחזר כמו שנתבאר כי לא נחשד צזה. וגם צמומר לעצודה זרה שיצדיל עלמו מתאות העולם הזה והמון חוגג של גוים הוי מעשה הניכר דחוזר

תומים סימן לד

Rav Yonatan Eiberschutz disagrees with the Shach. He understands that the accept of a repentant meshumad on the basis of commitment alone is backed up by the fact that he has already separated himself from non-Jewish society. Moreover, in the case of the Cohen, mere verbal commitment to divorce is NOT sufficient. He must make a public neder - vow - to divorce the woman. So too, for most sinners, a mere verbal commitment is not sufficient. It must be backed up by actions!

14. ל מאימתי חזרת המשחקים בקוביא? משישברו פספסיהם (פי' כלי השחוק הנזכר והם הקוביאיות) ויחזרו בהם חזרה גמורה שלא יעשו אפילו בחנם.
לא מאימתי חזרת מפריחי יונים? משישברו הכלים שצדין בהם ויחזרו בהם חזרה גמורה שאפילו במדבר לא יעשו

שולחן ערוך חושן משפט סימן לד סעיף ל - לא

The Shulchan Aruch rules that certain aveirot are sufficiently addictive that we DO require a much clearer change in behavior as evidence of effective teshuva.

15. ... ואף דבסעיף לא מצוהר דבעינן שיקבל עליו לאסור דברים המותרים עצירה דחימוד ממון שאני

נהיבות המשפט ביאורים סימן לד

The Netivot - who rules like the Shach - also differentiates between different types of aveira. In some cases commitment to teshuva may be sufficient. In others a clear public change of behavior will be necessary.

E] REINSTATEMENT TO A LEADERSHIP ROLE

16. אבל ראש הישיבה שחטא מלקין אותו ואינו חוזר לשררותו

רמב"ם סנהדרין פרק יז הלכה ט'

The Rambam rules that a Rosh Yeshiva who sins may not be reinstated to his former position. This is the case even if they do teshuva and (as we saw above) may then teach Torah again in some capacity.

Many of the commentators⁷ explain that this relates to the Nasi of the Sanhedrin. A number of explanations are given as to why the Nasi may not be reinstated after punishment:

- (i) In case he takes revenge against the court that punished him.
- (ii) Since he will never again command the respect of the people.
- (iii) Since the aveirot of such a public figure are considered to be a Chilul Hashem.⁸

Although (i) is relevant only to the position of Nasi on the Sanhedrin, (ii) and (iii) could relate to contemporary Torah leaders.

F] CONTEMPORARY RULINGS

Rav Hershel Shachter⁹

Q1: Can one still follow the piskei halachah of a fallen rabbi?

Rabbi Schachter: No. The pasuk in Navi, as expounded by the gemara (Moed Katan 17a), says that a Torah teacher must be sinless and righteous like a malach. According to the Torah, we only follow a rabbi's ruling if he properly models Torah behavior. If he is a ba'al aveirah, if he knowingly violates Biblical or rabbinic laws, he is not qualified to teach and render halachic rulings. When members of the public become aware of his improper behavior, they may no longer rely on his judgment for any rulings, unless it can be verified that such rulings were rendered before the rabbi's sinful conduct began. Since it is often not possible to ascertain when these rulings were

7. See Kesef Mishne and Radvaz on Sanhedrin 17:8

8. See Teshuvot Radvaz (6:2078)

9. Halacha and the Fallen Rabbi (June 4 2015). An interview with Jewish action, available in full at <https://jewishaction.com/religion/jewish-law/halachah-and-the-fallen-rabbi-q-a-with-rabbi-hershel-schachter/>

rendered, one should ask another rabbi for a new pesak.

Although people use Jastrow's dictionary, and I was told that Jastrow was not Orthodox, that is different because that is an issue of translation, not pesak. For a pesak, a rabbi needs to consider all issues before him, and weigh and evaluate them. It is very different than mere translation. To issue halachic rulings, one must be part of the Chachmei haMesorah. A rabbi who sins, especially if he commits a crime, is certainly not in this category.

Q2: What does one do with the sefarim written by such a rabbi?

RS: They should not be used. Since his sefarim include his ideas and rulings, they fit into the prohibition against studying Torah from someone who is unfit due to his improper behavior. Any time someone writes a sefer, he fleshes out and resolves apparently contradictory passages. This is called being machria—providing one's own resolutions in Torah study. The type of person we are discussing is not qualified to be machria and, therefore, his sefarim cannot be used. If it can be verified that the sefarim and the halachic rulings were issued before this person's sinful behavior began, only then can they be relied upon and quoted.

Q3: Can we/should we continue to cite divrei Torah in his name?

RS: We are not allowed to do so. The gemara (Avodah Zarah 35b) says that if a rabbi violates halachah, one cannot say divrei Torah in his name. The statements found in the Talmud in the name of Elisha Ben Abuya were made when he was still committed to Torah observance and belief (see Tosafot, Sotah 12b). If it would appear that the books and articles of the fallen rabbi were written before he began his sinful behavior, they may be used.

Rav Mordechai Willig¹⁰

Rabbi Willig: Any indiscretion with respect to ערויות [sexual misconduct] is an absolute disqualification [from serving a role in Torah education]. When it comes to monetary matters, there are so many different levels of monetary violations. It seems to me that a significant monetary violation is enough to disqualify a person, though it is hard to define 'significant' precisely. As far as גאווה [arrogance] is concerned, it should certainly disqualify an individual, but it is hard to define the term בעל גאווה. Unfortunately, there are people with גאווה who sit comfortably in their seats in the world of Torah education and the rabbinate and have not been fired for the sin of גאווה. ... Not every instance of גאווה translates into misfeasance. Hubris often leads to misconduct, but not always. If you ask me, such an individual should not be a rabbi, but once he is a rabbi, it's hard to terminate him.

Q - Can students continue learning from a rabbi's sefarim after he is exposed as a sinner?

RW: No, no, no. This kind of sinful behavior¹¹ is so far from the proper standard, that I believe that his sefarim, his Torah, his websites, his derashos - should all be discarded. We should not be learning his Torah at all. Rabbi Meir was unique Moreover, the sin of Acher was more philosophical. It's hard to compare a philosophical sin, as bad as it is, to a sin that is anything but victimless - a sin that has victims who were terribly damaged, some with permanent damage. If others continue having a warm and cordial relationship with the offender, without his having a change of heart, this can inflict additional damage, even if he is not longer actually victimizing people.

Teshuva is possible but who said he did teshuva? ... Teshuva means that he is contrite, asked forgiveness, is sincere and is not just bluffing, accepts upon himself סייגים and גדרים ['fences' and safeguards against repeating the sin] and is broken, and there is no longer any trace of the original גאווה. ... And even once a perpetrator did teshuva, we need to balance the needs of the ba'al teshuva, which is significant, with the needs of the victims. And it's impossible to give a 'one size fits all' answer It depends on the nature of the sin, the nature of the perpetrator, the nature of the victims, and the place where the ba'al teshuva's activities are taking place as compared to where the victim is. All this needs to be taken into consideration. ...

Once a person is caught in illicit behavior with respect to women, I don't think he should be trusted on anything. I would say that nothing he said is reliable, and so I recommend to those who had learned information from him that they should study the material again from a reliable individual.

10. In an interview with Dovid Lichtenstein on 25 June 2016 and reproduced in Headlines 2, p 114

11. Rabbi Willig is responding to a scandal shortly before the interview in which a rabbinic educator was exposed as having committed extremely serious sexual misconduct.

It is very important for a person whose trust in a rav was broken, whether it is a man or woman, to try and find a new rav whom they can really trust. Going through life without any rav, with the feeling that every rav is suspect, is also a disaster. There are rotten apples in every barrel - too many, unfortunately - but we cannot throw all the rabbis out because of the unsavory, illicit illegal and horrific behavior exhibited by some.

Rabbi Aryeh Lebowitz¹² records¹³ the psak of a number of central YU Rabbanim on these issues. All agreed that NEW Torah or psak may not be learnt from disgraced Rabbis. On the question of old material:-

- Rav Moshe Weinberger - past divrei Torah of disgraced Rabbis must be put away and never looked at again.
- Rav Hershel Schechter - past divrei Torah may not be trusted since a disgraced Rabbi has shown himself not to be a 'Ba'al HaMesorah'. Advice of simple references to other sources which do not require a 'Ba'al Mesorah' do not need to be discarded and can be checked.
- Rav Mordechai Willig - past divrei Torah of disgraced Rabbis¹⁴ may not be used if they related to the area that he sinned in. Other areas are presumed to be reliable.¹⁵
- Rav Dovid Feinstein - if the rabbi's misconduct was due to 'yetzer hara' past Torah can be learnt and trusted.

12. In shiur on YU Torah dated Mar 24, 2014 - available at

[http://www.yutorah.org/lectures/lecture.cfm/810933/rabbi-aryeh-lebowitz/ten-minute-halacha-learning-torah-from-disgraced-rabbis-\(35-minutes-long\)/](http://www.yutorah.org/lectures/lecture.cfm/810933/rabbi-aryeh-lebowitz/ten-minute-halacha-learning-torah-from-disgraced-rabbis-(35-minutes-long)/)

13. From minute 17:30 on.

14. Presumably excluding apikorsim.

15. The positions of Rav Willig and Rav Schachter on the PAST Torah of disgraced Rabbis as recorded here appears to be reversed from those recorded by Dovid Lichtenstein above - לצ'!