



Techeilis- Rabbi's who committed crimes

Show# 71 | June 25th 2015

Host: Rabbi Aryeh Lebowitz

רמב"ם הלכות ממרים פרק ו הלכה יא

הממזר חייב בכבוד אביו ומוראו אף על פי שהוא פטור על מכתו וקללתו עד שיעשה תשובה

ספר החינוך פרשת קדושים מצוה רס

ולפי הדומה שממזר חייב על קללת אביו ואמו, שהרי הוא ראוי לירש אותם מדין תורה, ודין בן כשר יש לו גם כן לענין אבילות ולכל דבר

תלמוד בבלי מסכת חגיגה דף טו עמוד ב

ורבי מאיר היכי גמר תורה מפומיה דאחר? והאמר רבה בר בר חנה אמר רבי יוחנן: מאי דכתיב כי שפתי כהן ישמרו דעת ותורה יבקשו מפיהו כי מלאך ה' צבאות הוא, אם דומה הרב למלאך ה' צבאות יבקשו תורה מפיהו. ואם לאו אל יבקשו תורה מפיהו אמר ריש לקיש: רבי מאיר קרא אשכח ודרש הט אזנך ושמע דברי חכמים ולבך תשית לדעתי. לדעתם לא נאמר, אלא לדעתי. רב חנינא אמר מהכא: שמעי בת וראי והטי אזנך ושכחי עמך ובית אביך וגו'. קשו קראי אהדדי לא קשיא, הא בגדול, הא בקטן. כי אתא רב דימי אמר, אמרי במערבא: רבי מאיר אכל תחלא ושדא שיחלא לברא. דרש רבא: מאי דכתיב אל גנת אגוז ירדתי לראות באבי הנחל וגו' למה נמשלו תלמידי חכמים לאגוז? לומר לך: מה אגוז זה, אף על פי שמלוכלך בטיט ובצואה - אין מה שבתוכו נמאס, אף תלמיד חכם, אף על פי שסרח - אין תורתו נמאסת. אשכחיה רבה בר שילא לאליהו, אמר ליה: מאי קא עביד הקדוש ברוך הוא? אמר ליה: קאמר שמעתא מפומיהו דכולהו רבנן, ומפומיה דרבי מאיר לא קאמר. אמר ליה: אמאי משום דקא גמר שמעתא מפומיה דאחר. אמר ליה: אמאי? רבי מאיר רמון מצא, תוכו אכל, קליפתו זרק.

רמב"ם הלכות תשובה פרק ב הלכה ד

מדרכי התשובה להיות השב צועק תמיד לפני השם בבכי ובתחנונים ועושה ג צדקה כפי כחו ומתרחק הרבה מן הדבר שחטא בו ומשנה שמו כלומר אני אחר ואיני אותו האיש שעשה אותן המעשים ומשנה מעשיו כולן לטובה ולדרך ישרה וגולה ממקומו, שגלות מכפרת עון מפני שגורמת לו להכנע ולהיות עניו ושפל רוח.

על זה מהפסוק זה קלי ואנוהו, ובכל כה"ג שפיר כתב הרי"ף דאין בהשלמת החפצא (בכדי לקיים את ההידור) משום איסור מתקן. משא"כ מאי דבעינן בציצית שתהא נוטפת על הקרן, אין זה רק בתורת הידור מצוה בעלמא, אלא בתורת קיום המצוה בשלמותה, ובוזה שפיר ס"ל להס' גן המלך דאף בכה"ג יש בעיא של מתקן מנא.

ועיין עוד מש"כ להלן (סי' ב') בנדון שיטת הרמב"ם שתכלת ולבן מהווים מצוה אחת, למרות מה שאין מעכבים זא"ז.

אין ממעטין אותו ביו"ט. אבל השתא דקיי"ל א"צ אגד, לאו כלום קא עביד, דהא אי אינקט כל חד וחד לחודיה נמי נפיק. הרי שמתבאר מדברי הרי"ף, דמאחר שהצורך לאגד הוא רק לכתחילה, ואינו מעכב בדעבד, אין בזה משום מתקן מנא אם יעשה את האגד ביו"ט. ועפ"י פשוטו, דברי הרי"ף עומדים בסתירה לדעת הגן המלך שהזכרנו.

אכן יש לחלק ולומר, דלרבנן דסברי דלולב א"צ אגד, מה שאוגדים אותו הוא בתורת הידור מצוה בעלמא, וכמבואר בגמ' סוכה (יא:), שהביאו

אוצר החכמה

סימן ב'

בדבר הטלת תכלת בציצית

וחדשים מקרוב באו ונהגו ללבוש טלית (של מצוה) צבועה בשאר צבעונים, והוא נגד המנהג המקובל, וכמבואר.

ב. שלא יהיו חוטי הלבן צבועים

ואע"פ שהרמ"א כתב שנהגו שלא לצבוע את חוטי הציצית אפי' אם הבגד צבוע, מכ"מ זה ברור, שאפילו צבעו החוטים באיזה צבע שהוא, אפילו בהיה הבגד כולו לבן, כדיעבד ודאי יצא ידי חובתו, שהרי מבואר להדיא בגמ' מנחות (מ.) דמי שצבע החוטים בקלא אילן ג"כ יצא ידי חובתו, דלא יהא אלא לבן. וממילא הי' נראה פשוט שאם יש בידו ספק תכלת, שבודאי יותר טוב להשתמש בו לצבוע בו מקצת מהחוטים, ולוותר על מנהגו של הרמ"א — שלא לעשות את חוטי הציצית רק לבנים, דמטעם ספיקא דאורייתא לחומר אודאי מחוייבים להשתמש בתכלת המסופקת, אולי יהי' בידו הקיום של מצות ציצית בשלמותה.²

אלישיב שליט"א (ח"א (סי' ב'), צע"ג, ומסתמא יש בזה איזה טעם הכמוס.

א. שיהא הבגד לבן

הטור והב"י והמחבר (או"ח סי' ט' ס"ה) כתבו לחוש לדעת כמה מהראשונים, דמדרשת הכנף מין כנף ילפינן נמי שיש לעשות חוטי הציצית מצבע הטלית. והרמ"א גם בדרכי משה וגם בהגהה שם כתב שהאשכנזים אין נוהגים לעשות הציצית רק לבנים אף בבגדים צבועים, ואין לשנות. ועיי"ש במשנ"ב (ס"ק ט"ז) שהביא את דברי הט"ז, דבכדי לחוש לשתי הדיעות בזה¹ יש לדקדק שלא לעשות טלית צבועה בשום צבע אלא להשתמש דוקא בטלית לבנה, כדי שבזה שיהיו החוטים לבנים יצא י"ח שתי הדיעות.

ועפ"י קבלה יש בזה עוד טעם, שבספר דניאל (ז, ט) מצינו בתארו את הקב"ה היאך שהיה לבושיה כתלג חיור, ומבואר בספר חסידים שראה את הקב"ה במראה הנבואה שלו לבוש בטלית (של ציצית) לבנה, ולפיכך מן הנכון שאף אנו נעשה כן, ללבוש טלית (של מצוה) לבנה.

(1) ועמ"ש"כ בס' נפש הרב (עמ' כ') בענין זה.

(2) ומה שנדפס בס' קובץ תשובות (מהגרי"ש

שעשה, אלא שחיסר מלקיימה בשלמותה. ועי' משנ"ב (סי' ל"ד ס"ב בבה"ל ד"ה יניח), דבדמים הניתנים במתן אחת במקום שהיו צריכים מתן ב' או מתן ארבע, אף דקיי"ל בזבחים (פרק ב"ש) דבדעבד כיפר, עכ"פ הר"ז עובר בבל תגרע, וזוהי תוכחת מגולה לאדם הרוצה להתרשל לפעמים במצוות עשה בדבר שהוא רק לכתחילה, עיי"ש. ולפי דברי הטו"א הנ"ל, זוהי הגדרת הך לאו דב"ת, שלא לעשות מצוות התורה בגרעון, ואינו נוהג אלא בכה"ג — בעושה לכתחילה באופן שכזה שרק יוצאים י"ח בדעבד.

ולפי דבריו הי' נראה לומר, דאף דקיימא לן כחכמים דרבי דתכלת אינה מעכבת את הלבן, מכל מקום, מי שיש בידו תכלת, ואינו מטריח את עצמו להטילה בבגדו, הרי יש בזה משום לאו דכל תגרע.

ה. ביסוד הענין דתכלת ולבן

עיי' ברמב"ם (פ"א מהל' ציצית ה"ג וה"ד), שאין בציצית שתי מצוות (אחת של תכלת ואחת של לבן), אלא הכל מהווה חדא מצוה. ובס' מעשה נסים (שאלה ה') הובאה בזה קושיית הדיין ר' דניאל הכבלי, דהלא הרמב"ם בעצמו כתב (כפ"ד מתפילין ה"ד) שתפילין ש"י ותפילין ש"ר מהוות שתי מצוות נפרדות, והראי' מדאינן מעכבין זא"ז. וכן כתב בהלכות לולב (פ"ז ה"ה), דד' מינים שבלולב כולן מהוות מצוה אחת, מדמעכבין זא"ז. וא"כ, היאך כתב כאן שתכלת ולבן מהוות מצוה אחת, והלא מאחר שאינן מעכבין זא"ז, הול"ל שהן מהוות שתי מצוות נפרדות, כמו בתפילין של יד ושל ראש. ועמש"כ בזה הרמב"ם

חדא מצוה. [וכדעת ר' יהודה הסובר שתר"ת חדא מצוה היא י"ל דס"ל דהך קרא דובהקהיל את הקהל תתקעו וגו' איננה מצוה לדורות, אלא הוראת שעה בעלמא, ודורות משעה לא ילפינן, וממילא אין להכריח שום דבר מכח דין זה. ויל"פ דלזה נתכוונו שם בגמ' ערכין, ור' יהודה, סימנא בעלמא הוא. כלומר, שזה הי' רק להוראת שעה, ואין ללמוד ממנו שום דבר לדורות.]

ג. בדין ספק דאורייתא לחומרא

ובישיבות אומרים בשם הגר"ח ז"ל, דאין דין סד"א לחומרא נוהג אלא באופן שאנו מסופקים אם כבר קיים המצוה א"ל, או אם הוא מחוייב בעשיית המצוה א"ל, ועי"ז שיחמיר לעשות את מעשה המצוה יצא מידי הספק, ויהי' ודאי אצלו שכבר יצא י"ח.

אך בודאי מחוייב במצוה ויש לפניו אפשרות לקיימה מספק באופן שכזה שאפילו אם יחמיר על עצמו לעשות את המעשה מספק, עדיין יהי' עומד בספק אם באמת יצא בזה ידי חובתו או לא, בזה ל"א ספק דאורייתא לחומרא. ולפי"ז, ביש בדינו ספק תכלת, לא נימא בכה"ג דספקא דאורייתא לחומרא, שהרי אפילו יטיל אותם החוטמים הצבועים בבגדו, עדיין יהי' עומד בספק אולי לא קיים בזה כלום.

אכן עפ"י פשוטו נראה שסברא זו קשה היא מאוד, ועיין בספר גור אריה יהודה (לבנו של הגה"ק ר' מנחם זעמבא, הי"ד) סי' ז' וח', שכסברא הנ"ל הסביר הפרמ"ג בכונת המג"א (סי' קצ"ד), אלא שבר"ן לסוכה (מו:) מבואר להדיא דלא ס"ל הכי.

ד. בדין בל תגרע

ועי' תשו' בית הלוי (ח"א סי' מ"ב) שהביא סברא מחודשת מהס' טו"א בנוגע להגדרת הלאו דבל תגרע, דבמטיל ג' ציציות בבגד, או בחיסור פרשה מהתפילין, א"א לומר שעובר בבל תגרע, שהרי לא עשה כלום, ואין לאו זה נוהג אלא בעושה איזה מצוה בגרעון, כלומר, שקיים המצוה באופן

(3) וכמדומה לי שראיתי בשם הגאון בעל צפנת פענח שהמקור שבש"ס לכללו הזה של הרמב"ם הוא מדברי הגמ' ערכין (י). ר' יהודה סבר תר"ת חדא היא, ורבנן סברי תקיעה לחוד ותרועה לחוד ותקיעה לחוד. מאי טעמא ... ורבנן מאי טעמא דכתיב ובהקהיל את הקהל תתקעו ולא תריעו, ואי ס"ד תר"ת חדא היא, אמר רחמנא עביד פלגא דמצוה וכו'. הרי שכך היו סבורים האמוראים, שאם אפשר לפעמים להיות זה בלא זה, אז הם לא מהווים

פשוטה, כפי שהבינו אותה בתחילת הסוגיא, דעי' גמ' מנחות (לח.) התכלת אינה מעכבת את הלבן והלבן אינו מעכב את התכלת, ושאלו ע"ז בגמ', לימא מתניתין דלא כרבי דתניא וכו', א"ר יהודה אמר רב אפילו תימא רבי, לא נצרכא אלא לקדם וכו', התינה לבן דאינו מעכב את התכלת, תכלת דאינה מעכבת את הלבן מאי היא... אמר רבא לא נצרכא אלא לגדרומין וכו'. ומשמע להדיא מדברי המקשן, דאילו לחכמים דרבי ניחא כולא מתניתין, בין בבא דרישא דהתכלת אינה מעכבת את הלבן, ובין בבא דסיפא דהלבן אינו מעכב את התכלת, ולא הוצרכו להעמיס ביאורו של רבא בסיפא דמתני' [דמיירי בגדרומין] אלא אם כן תרצה לבאר את המשנה אף אליבא דרבי, ואילו הרמב"ם שפסק כחכמים לא הי' לו להביא את ביאורו של רבא בהך מתניתין. אכן עי' לשונו בפ"א (הל' ד') שכתב, והתכלת אינו מעכב את הלבן, והלבן אינו מעכב את התכלת, כיצד הרי שאין לו תכלת עושה לבן לברו (והיינו כחכמים דרבי), וכן אם עשה לבן ותכלת ונפסק הלבן ונתמעט עד הכנף ונשאר התכלת לברו כשר (והיינו דין גדרומין). והוא תמוה, דמה דחקו להרמב"ם להביא פירושו של רבא בסיפא דמתני', שלא נאמר אלא לפרש את המשנה אליבא דרבי, ואילו הרמב"ם שפסק דלא כרבי, הי' לו להביא את המשנה כפשוטה, וכפי שהבינה המקשן. אלא ודאי מתבאר מזה דבתחילת הסוגיא הבין המקשן כרש"י ותוס', שהתכלת והלבן מהווים שני חלקים נפרדים מעצם המצוה של הציצית, ורק אליבא דחכמים אפשר לומר דבהטיל רק חוטי לבן או רק חוטי תכלת שקיים רק את חציה של המצוה, ושיש בידו עכ"פ קיום של מצות הציצית שלא בשלמותה. [ואילו אליבא דרבי אין בידו אף מקצת קיום של כלום].

אך לפי המסקנא שחידש רבא שיש מקום לבאר לשון המשנה דמיירי בדין גדרומין, ממילא יש כבר מקום לבאר אחרת את שיטת חכמים דרבי, וכנראה דכן סובר הרמב"ם, דעיקר המצוה הוא בהטלת ד' חוטי הלבן. אלא שיש פרט נוסף הנצרך בכדי לקיים את המצוה בשלמותה,

בשורש י"א בספהמ"צ, ובתשובת הר"ר אברהם בנו של הרמב"ם בס' מעשה נסים שמה.

ומרבנו ז"ל שמעתי בזה בבאור כונתו, דהנצי"ב בבאורו לשאלות (פ' שלח) כתב, שיש מחלוקת יסודית בין הרמב"ם והראב"ד מצד אחד לבין רש"י ותוס' מצד השני בהבנת ענין התכלת. דלדעת רש"י ותוס' (בגמ' מנחות ר"פ התכלת) שחציין של החוטים צריכים להיות תכלת, חזינן שאלו הן שני חלקי המצוה, ולפי דעת החכמים שתכלת אינה מעכבת את הלבן, כתבו התוס' שמה (בד"ה התכלת) שיש מקום לפרש שרק צריכים להטיל ב' חוטים שהם ארבעה, דמה ירויח אם יטיל ד' חוטי לבן שהם שמונה, הלא אין צריכים רק ב' חוטי לבן ולא כל ארבעתן. אך לדעת הרמב"ם והראב"ד, אין ענין התכלת שהיא מהווה חלק-עצמי מגוף מצות הציצית, אלא כך הוא גדר הדין, שמצות ציצית ענינה — ד' חוטי לבן שהם שמונה, אלא שיש מצוה לעשות פתיל, דהיינו הכריכות שבחוליות, וכפרש"י עה"פ דור עיקש ופתלתל, דהיינו צודריי"ט בלע"ז, דענין הפתיל היינו הכריכות, והתכלת נצרכת היא עבור הכריכות, וכדכתיב בקרא — ועשו להם ציצית וכו', ונתנו על ציצית הכנף פתיל תכלת, כלומר, דעיקר מצות הציצית הוא בהטלת ד' חוטי הלבן, אלא שיש פרט נוסף שנאמר בכדי לקיים את המצוה בשלמותה, דהיינו — שיעשו כריכות באמצעות התכלת, ועי' רמב"ם שכתב להדיא (פ"א ה"ט) שעיקר דין הכריכות, וכל הקפידות שנוכרו בגמ' בקשר לכריכת החוליות, הכל נאמר רק בזמן שיש שמה תכלת. [וכ"ה בתוס' מנחות (לט.) ד"ה לא יפחות.] ולפיכך ס"ל להרמב"ם והראב"ד דסגי בחוט אחד של תכלת, דלא בעינן לה להתכלת אלא בכדי לאפשר עשיית הכריכות, לקים את הפרט הזה של המצוה של פתיל. אלא דבהכי פליגי — בנקודה אחת, אי בעינן חוט אחד שלם או שבחציו של חוט אחד נמי סגי, אבל בהבנת עיקר ענין התכלת, אמרו שניהם (הרמב"ם וראב"ד) דבר אחד.

ולפי"ז שפיר מיושבת תמיהת הר' דניאל הבבלי, דאף דסובר הרמב"ם דאין התכלת והלבן מעכבין זא"ז, לא הביא את דין המשנה כפי

לאו דבל תגרע מטעמים פוליטיים.

והנה לפני כמה שנים דקדקו חבורה של בני תורה מעיה"ק אפרת אחר בירוריו של הגרי"א הרצוג ז"ל בענין החלזון, והמציאו מה שלפי דעתם היא ודאי תכלת. ואפילו לאלה המהססים בטבעם בדברים מחודשים, ואפילו לאלה הטוענים שכבר נפסקה מאתנו המסורה בזיהוי החלזון (עי' מש"כ בזה בס' נפש הרב עמ' נ"ג), מכ"מ בודאי מחוייבים הם להודות שעכ"פ מידי ספק לא יצאה התכלת הזאת החדשה, וא"כ, לפי פשוטו בודאי עלינו להשתמש בה כל מי שיש בידו האפשרות, מטעם הך חששא דב"ת, וכאמור. ובאמת, ליכא חובה ללבוש בגד עם ד' כנפות אלא שמדת חסידות היא, בכדי להתחייב במצות ציצית. וע"פ פשוטו הי' נראה לומר דמי שיש בידו האפשרות להטיל תכלת בבגדו ואינו עושה, מוטב הי' אילו לא הי' לובש בגד של ארבע כנפות בכלל, דבמה שלא מתלבש בד' כנפות הרי איננו מתחייב במצוה זו, ואילו הלובשו ואינו מטיל בו תכלת, הרי"ז עובר כבל תגרע.

ז. במנין חוטי התכלת

והנה הראשונים נחלקו במנין חוטי התכלת [כאשר כבר הזכרנו למעלה], שלדעת רש"י ותוס' (למנחות) מטילים ב' חוטי תכלת שהם ארבעה, ולדעת הראב"ד — חוט אחד ארוך מן הארבעה, ולדעת הרמב"ם — רק חוט אחד מהשמונה צובעים בדם החלזון. ועי' תוס' כתובות (מ.) ד"ה כגון, שכפלו דבריהם בזה גם לענין כלאים בציצית, דעל שני חוטים אמרינן הותרה, ועל שני חוטים דחוייה, עיי"ש בדברי ר"ת. וכן עי' משנ"ב סי' ט' סק"ז, ומחבר סי' י"ב ס"א לענין גרדומין, שהביאו דעת הר"ת בזה להלכה, דתמיד עושים ב' חוטי תכלת וב' חוטי לבן. וכן עי' משנ"ב סי' ט' סקי"ד בשם המלבי"ם, דבשני חוטים ממין הבגד (שנעשה משאר מינים) ושני חוטים מצמר, שפיר דמי, דב' חלקים נפרדים הם במצות הציצית, ב' חוטי הלבן, וב' חוטי התכלת. ועפ"י פשוטו הי' נראה שלבני אשכנז שנמשכים תמיד אחר שיטות בעלי התוס'

והיינו — שיעשה הכריכות עם התכלת, אבל פרט זה אינו מעכב בעיקר מצות הציצית, והיינו דקתני ברישא שהתכלת אינה מעכבת את הלבן. אבל בסיפא כבר א"א לומר כפשוטו, שאם רק עשה את ההידור של הכריכות והפתיל ולא הטיל את ד' חוטי הלבן שמכ"מ יש בידו מקצת קיום, דאין לזה משמעות של כלום, דהיאך אפשר לקיים הידורים מבלי לעשות את עיקרה של המצוה, ולפיכך הביא הרמב"ם את ביאורו של רבא, דסיפא דמתני' בא ללמדנו דינא דגרדומין, אפילו אליבא דחכמים דרבי. (עיי"ש בהעמק שאלה הנ"ל.)

ולפי"ז בודאי א"א לומר שתכלת ולבן מהוות שתי מצוות נפרדות מדאין מעכבין זא"ז, דא"א לומר שהלבן אינו מעכב את התכלת, וכאמור, ונמצא שבודאי יש כאן רק חדא מצוה של לבן, ואשר נאמר בה פרט זה של כריכות ופתיל בכדי לקיימה להך מצוה בשלמותה. וממילא נראה פשוט שאם נתפוס כהבנת הטו"א הנ"ל בגדר הלאו דבל תגרע, דהיינו, כל שמקיים מצוה בגרעון, כלומר, שעשה מצוה לכתחילה באופן שמקיימים אותה רק בדעבד, א"כ במטיל לבן בלי תכלת בודאי יעבור כבל תגרע.

ו. עשה דוחה לא תעשה

אכן אם אין בידו תכלת בודאי צ"ל או שאין בזה בכלל איסור בל תגרע, שהרי אין בידו הברירה לקיימה להמצוה בשלמותה; א"נ י"ל, דאף דשפיר יש בזה משום ב"ת, מכ"מ עדל"ת. אבל עכ"פ ביש בידו תכלת, שוב א"א לומר שעדל"ת, שהרי אפשר לו לקיים את שניהם, וכללא כ"ל (מנחות מ.), כל מקום שאתה יכול לקיים את שניהם וכו'. וממילא נראה פשוט שכל שיש בידו ספק תכלת בודאי מחוייב הוא להטילה בציציותיו כדי שלא יעבור אלאו דבל תגרע. ומה שנמצא כתוב בשם הג"ר יצחק אלחנן ז"ל, שאף שהי' סבור שהתכלת של האדמו"ר מראדזין הי' בה ממש, מכ"מ מיאן מלהשתמש בה מטעמים פוליטיים — הוא דבר תמוה מאוד, דהלא אין חכמה ואין עצה ואין תבונה לנגד ד', ואיך הותר לאדם לעבור אפילו על ספק

שמספר הכריכות שבכל חוליא לא יהיו פחות מז' ולא יותר מי"ג, ועל כן נהגו לעשות ז', ח', י"א, וי"ג, שהמספר הכי-קטן הוא זי"ן, והמספר הכי-גדול הוא י"ג. אך בזמן דאיכא תכלת, שאז צריכים לדקדק היטב בכריכות, אשר זהו הדין של פתיל הנזכר בקרא, אז מסתמא צריכים לנהוג כדעת רוב הראשונים לעשות לכה"פ ז' חוליות, ולעשות בין כל חוליא וחוליא קשר גמור של קשר ע"ג קשר, [כמנהגנו בזה"ז, דמ"ט נשנה את זה], ובכל חוליא יהי מינימום של ג' כריכות [וכמבואר שם בגמ' לעיל — וכמה שיעור חוליא, כדי שיכרוך וישנה וישלש]. ובודאי אם יעשה ז' חוליות, ובכל אחת ז' כריכות, יצא בזה לכו"ע, אך הרבה פעמים אין החוטים די-ארוכים לעשות מ"ט כריכות יחד עם ט"ז קשרים (כלומר, ח' פעמים קשר ע"ג קשר, וכנ"ל), ולכתחילה מן הנכון שיהא חלק הכריכות כשליש מאורך החוטים, וחלק הענף שני שלישים. אכן אם יעשה לכה"פ החוליא הראשונה עם ז' כריכות, ושאר החוליות עם ג' כריכות, ירויח בזה במקצת, דמעיקר הדין סגי בחוליא אחת לעיכובא, והוספת ד' הכריכות הנוספות שבחוליא הראשונה לא יגרום למעט כ"כ את אורך החוטים.

ט. בסדר חילופי כריכות חוטי התכלת והלבן אלא שבסדר כריכת התכלת והלבן באלו החוליות נחלקו הראשונים טובא, דלדעת הרמב"ם דק הכריכה הראשונה והאחרונה [מאלו הכ"א (או המ"ט) הכריכות שבז' החוליות] של לבן הן, ושאר י"ט (או מ"ז) הכריכות יהיו כולן מתכלת. ודעת הראב"ד בהשגות (שמה) שהכריכה השלישית והחמישית והשביעית והתשיעית וכו' כולן לבן הן, ודעת התוס' (הנ"ל) שהחוליא הראשונה עושים מלבן, ואח"כ חוליא שניה של תכלת, חוליא

דומה לרקיע, וכל המספרים של שבעה וי"ג הכל הוא כנגד ז' הרקיעים וכנגד ו' האוירים שביניהם, אשר בצירופם יחד יש י"ג, וממילא בזמן דליכא תכלת, א"צ לדקדק כ"כ ברמזים אלו שכנגד הרקיעים.

[וכמש"כ הרא"ש בתשובה שאנו תופסים שהר"ת והר"י גדולים היו בחכמה ובמנין יותר מאשר הר"ף והרמב"ם], א"כ יש להם לנהוג אף כאן כדעת בעלי התוס' להטיל שני חוטי תכלת ושני חוטי לבן. ואף שהובא בשם הגר"א שהי' משוכנע שבודאי אין הלכה בזה כרש"י ותוס', אלא שלא הכריע אם כהרמב"ם או כהראב"ד,⁴ בודאי אלה הנוהגים תמיד כדעת הגר"א, יש להם לנהוג כן אף בנדון זה, אבל לרוב העולם שלא קבלו על עצמם לנהוג תמיד כשיטות הגר"א, מסתמא יש להם לנהוג כהכרעת השו"ע והמשנ"ב ושאר האחרונים בזה, שנמשכו אחר דעת רש"י ותוס'.

ח. במנין החוליות והכריכות

והנה בדבר מנין הכריכות והחוליות, ע"י בס' דברי אליהו (סוף פ' שלח) בשם הגר"א שמשמע מדבריו דכך צ"ל תמיד — ל"ט כריכות בד' חוליות של ז', ח', י"א, וי"ג, ועיי"ש בטעם הענין בזה. ועפ"י פשוטו הוא צע"ג, דאיתא בגמ' מנחות (לט.) שהפוחת לא יפחות משבע (כנגד ז' רקיעים), והמוסיף לא יוסיף על י"ג (כנגד ז' רקיעים וו' אוירים שביניהם), ונחלקו הראשונים בהבנת דברי הגמ', אי קאי אמספר הכריכות הנצרכות בכל חוליא, או אמספר החוליות. ואף שרוב הראשונים הבינו דקאי אמספר החוליות,⁵ אין מנהגנו כן בזה"ז, שכבר הבאנו לעיל בשם התוס' והרמב"ם, שבזמן שאין מטילים תכלת, אין צריכים לדקדק כ"כ בעניני הכריכות,⁶ ונהגו לדקדק לנהוג כדברי רש"י (בפי' עה"ת) שעושים ה' קשרים בציצית, ומבואר בגמ' (לח:) שיש לעשות קשר על כל חוליא וחוליא, וממילא, מאחר שעושים ה' קשרים, מן ההכרח שיהיו שמה ד' חוליות [בין ה' הקשרים], ובאלו ד' החוליות נהגו כדעת הראב"ד,

(4) ע"י בס' הלכות הגר"א ומנהגיו, (להר"מ שטרנבוך, שליט"א), עמ' ל"ה.

(5) עיי"ש בתוס' (לט.) ד"ה לא יפחות, ובס' כליל תכלת הנ"ל, סי' ל"ה ול"ו.

(6) וכמש"כ שם התוס' בטעם הדבר. שהתכלת

מכריכה הראשונה והאחרונה], אבל אם כבר הכרענו (עבור האשכנזים) לנהוג כדעת רש"י והתוס' לעשות את חוטי הציצית חציין לבן וחציין תכלת, א"כ, הרי שאין אנו תופסים לדינא כסברת הרמב"ם הנ"ל [שכל עיקר ענין התכלת הוא רק עבור הכריכות] וא"כ אולי י"ל שמש"כ התוס' (כדעת הראב"ד במקצת) שמחליפים לעשות בסרוגין את מקצת מן הכריכות של לבן ואת המקצת מן התכלת, דהיינו ג"כ לפי שיטתם, וא"כ אולי יש לנו לנהוג בדוקא כדעת התוס' (או כדעת הראב"ד) אף בנוגע לעשיית הכריכות, בכדי שלא תהיה סתירה בהנהגתנו.

אכן נראה שאין זה מוכרח, דאף דלא קיי"ל כדעת הרמב"ם הסובר שכל עצם ענין התכלת הוא רק בכדי לעשות את הכריכות, מכ"מ עדיין י"ל עפ"י לישנא דקרא — ונתנו על ציצית הכנף פתיל תכלת — דהכריכות צריכות להעשות בעיקר עם התכלת, ופשוט. ואצל כמה מן הראשונים מצינו שכתבו שבזמן שאין שמה תכלת א"צ בכלל לעשות חוליות. (עי' בס' כליל תכלת הנ"ל סי' מ"ב, והע' ס"ד שם.)

שלישית של לבן וכו' בסירוגין, וכסברת הראב"ד, אלא שלדעת הראב"ד עושים הכריכות בסירוגין (בין לבן לתכלת), ואילו לתוס' — עושים את החוליות בסירוגין. והנה על מחלוקת זו כמובן, אין לנו כלל מסורה היאך לנהוג והיאך להכריע, ואין דברי התוס' בזה שיטה ידועה ופופולרית אצלם, כאשר מצינו בנוגע לשיטת התוס' בקשר למנין חוטי התכלת, שהובאה דעתם זו בכמה מקומות בתוספות, ובמחבר ובמשנ"ב, וכנ"ל, ועל כן הי' נראה לדינא לסמוך יותר על דברי הרמב"ם, שהרי בכס"מ שמה (פ"א ה"ז) הביא את דברי הרמב"ם בתשובה לחכמי לונל, שכתב שכן מצא בחיבורו של הגאון ר' שמואל בן חפני [וכעת נדפס החיבור ההוא בסוף הס' כליל תכלת להר"א טברג, שיחי']. ומסתמא היא מסורת יותר קדומה מאשר מש"כ התוס' בנושא הזה.

ואף שיש מקום לבעל הדין לטעון ולומר, דדעת הרמב"ם הנ"ל עפ"י דברי הגאון הוא באמת לשיטתו במנין החוטין, דאיהו ס"ל דאין התכלת חלק-עצמי ממצות הציצית, אלא שרק באה בכדי לקיים על ידה מצות הפתיל והכריכות, ולפיכך הוא דס"ל דכל הכריכות נעשות בהתכלת [חוץ

סימן ג'

בדין ספק ברכות להקל

מברך עליו מפני שהוא ספק דאורייתא, ועל ספק דאורייתא מברכין וכו'. ונכפלה פלוגתתם פעם שני' בפ"ו מסוכה הי"ג. ועי' כס"מ להל' מילה שהביא תשובת הרמב"ם בזה לחכמי לונל בביאור שיטתו.

א. בגדר תקנת יו"ט שני בזה"ז

והנראה לומר בזה, דהר"מ והראב"ד לשי' אזלי בביאור סוגיית הגמ'. דהנה יעויין בר"מ פ"ו מיו"ט הי"ב, היו לפניו שתי כלכלות של טבל ביו"ט ראשון אומר אם היום חול, תהי' זו תרומה על זו וכו'. ולמחר בשני תוזר ואומר, אם היום

בשבת (כג.) המדליק נר של חנוכה צריך לברך ... אקב"ו להדליק נר של חנוכה, והיכן ציונו, רב אויא אמר מלא תסור וגו' ... מתיב רב עמרם הדמאי ... מפרישין אותו ערום ... ואי אמרת כל מדרבנן בעי ברכה, הכא כי קאי ערום היכי מברך ... אמר אביי ודאי דדבריהם בעי ברכה, ספק דדבריהם לא בעי ברכה. והא יו"ט שני דספק דבריהם הוא ובעי ברכה וכו'. ומשמע דדוקא ספק של דבריהם לא בעי ברכה, אך ספקא דאורייתא בעי ברכה. ועי' ר"מ פ"ג ממילה ה"ו, דאנדרוגינוס אין מברכים על מילתו, מפני שהוא אינו זכר ודאי. והשיגו שמה הראב"ד אם אנדרוגינוס ספק.

Prominent Rabbi and Educator Accused of Sexual Abuse

June 21, 2016

by Jeremy Sharon

A prominent rabbi and educator living in Beit Shemesh has been accused of misusing his authority and position for his sexual gratification.

An ad hoc rabbinical court of senior rabbis in Israel and the US issued a warning instructing women to avoid all contact with Rabbi P, the founder of a website and study program called Master Torah, designed to aid the study of religious texts and retain the knowledge acquired.

According to the Master Torah website, P has rabbinical ordination from several authorities, including from the Chief Rabbinate, and is qualified as a rabbinical judge.

He has taught at Yeshiva University High Schools of Los Angeles, the Michlala seminary in Jerusalem, and was head of the Kollel (program for married yeshiva students) of Aish HaTorah in Jerusalem and Austin, Texas.

Following the publication of the rabbinical court ruling, Tamara Schoor, P's former student, welcomed the decision but said the ruling had been "a long-time coming" and that the rabbinical court "should have addressed this a long time ago, but better late than never."

Schoor told the press she met P at the age of 15 when "the process of grooming and manipulation began."

She was introduced by a camp counselor who had been in contact with P while she was at Michlala, and was told the rabbi would be able to help her regarding questions about Judaism and religious faith.

Schoor would meet with P in New York at his mother's house and he built up a mentor relationship with her over several years.

When Schoor came to Israel to study at Michlala at the age of 18, she made contact with P again, and would often meet with him at his home in Beit Shemesh, where she was also a frequent guest for Shabbat.

"Over the course of my year of religious study in Israel, he carefully broke down my personal boundaries, creating a high level of dependence and isolation, ensuring I was fully reliant on him for spiritual guidance, love and support," she said. "Alone in a foreign country, he became my mentor, role model and family. A brilliant manipulator,

he was able to convince me that his sole intention was to care for and empower me and my every action.”

Schoor said it took years for her to recognize and accept the insidious mind games, betrayal of trust and carefully orchestrated destruction of her innocence.

“It was only when I became aware of the existence of other victims that I was determined to take action and prevent additional abuse. I began a campaign of phone calls and emails, reaching out to anyone I could identify in the hopes of finding additional victims to speak out with and a safe and reliable method of publicizing it anonymously.

“But at every turn a door closed: victims afraid to be exposed, rabbis finding excuses not to address it, organizations lying to protect themselves and much more.”

When contacted by The Jerusalem Post, P said he would not comment on the allegations themselves.

He said however that “I was never presented with any specific allegations when I visited the rabbinical court,” and added that he was never contacted by the rabbinical court after his one and only meeting with the rabbis concerned.

Schoor has provided a statement to Israeli police.

In the ruling issued by the ad hoc rabbinical court on June 14, Rabbis Menachem Mendel Hacoheh Shafran, Gershon Bass and Haim Malinowitz said several rabbis and community figures had reported P’s “deviant” behavior.

Having spoken with P, the rabbis issued a ruling prohibiting him from associating with women in any way and for any reason, including married and unmarried women of any age.

The rabbis also warned all women against meeting with P for any reason publicly or privately, and from contacting him in any way including by phone or email and any other form of electronic correspondence...

...

Schoor herself issued concerns she had with the process of the rabbinical court in dealing with such issues, including that the system is reliant on the victim to bring additional victims forward as a part of the investigative process, and that the victim has to deal with rabbis and other officials who have no training in this field and don’t always have the qualities of empathy and sensitivity that are crucial in dealing with victims.

“While I wish the process hadn’t taken so long I want to thank the Beit Din for their leadership on this issue in making a strong statement about the danger P poses,” said Schoor.

“Rabbis have an undeniable role to play in these cases and can effect tremendous change. In light of the impact the Rabbinic statement has had, I implore community leaders and rabbis to follow the precedence that has been set for exposing dangerous predators. I know that the downfall of a well-respected and admired rabbi or community member causes confusion, fear and turmoil but the community relies on their leaders to protect them.”

The Disgraced Rabbi

One of the most tragic and harmful ills of contemporary Jewish life is the seemingly endless stream of scandals involving prominent rabbis and Torah educators. Shamefully, hardly a month goes by without the media reporting salacious allegations of corruption, abuse, or sexual impropriety involving clergy. These damning reports have caused and continue to cause a great deal of shame and embarrassment to Orthodox Jewry worldwide, as erstwhile role models and educators are exposed as criminals or sexual deviants.

As the Orthodox community engages in much-needed soul-searching and explores ways to purge this dreadful phenomenon from its midst, among the questions that have arisen relates to the status of Torah material produced by rabbis accused of inappropriate conduct. This question became relevant in February 2010 after the news broke of allegations of sexual misconduct perpetrated by a prominent figure in Israel's religious community, "Rabbi A". Rabbi A had been a highly popular lecturer, and recordings and transcriptions of his discourses were widely disseminated and recognized for their ingenuity and depth. Many of Rabbi A's former students and admirers were left wondering whether or not they may continue reading and listening to this material. More recently, in the summer of 2015, the esteemed "Rabbi B," Rosh Yeshiva and author of an acclaimed series of books, was arrested on serious charges of rape and molestation. News outlets reported that after the news broke, students in Rabbi B's yeshiva discarded all copies of his books on the premises.

Less than a year later, in June 2016, two letters were signed by prominent rabbis and *dayanim* in Israel and the United States warning women to keep a distance from "Rabbi C," an accomplished Torah scholar and educator. The signatories affirmed that they received credible testimonies from numerous girls and women of his sexual misconduct, and urged all women to avoid any sort of contact with Rabbi C. Rabbi C had previously launched and maintained a popular Torah website, which features thousands of Torah classes on a variety of subjects, delivered with exceptional clarity and breadth. Given the immense scholarly value of this material, many wondered whether they may still access and benefit from the resources on the rabbi's website, even after he was discovered to be guilty of some of the most severe Torah violations.

This essay will deal with three questions relevant to the unfortunate situation of a disgraced rabbi: 1) Is it permissible to continue studying Torah from him, despite the grave misconduct of which he is allegedly guilty? 2) Even if *halacha*

forbids studying from him in the present, may one learn material produced before the allegations surfaced? 3) May a disgraced rabbi resume his Torah educational activities after repenting?

Unsubstantiated Rumors

Before addressing the permissibility of learning Torah from a disgraced rabbi, we must first emphasize that this entire discussion refers to a rabbi whose misconduct has been confirmed. Unfortunately, in today's age of digital communication, unsubstantiated rumors contrived and disseminated by agenda-driven parties fly through the news, and especially social media, before the facts are sorted out and verified. Knowing the impatience of media consumers, many of whom do not generally read past article titles, some news websites run irresponsible, sensationalist headlines that misrepresent the facts and can lead to baseless suspicions. The "juicy" nature of rabbinic scandals, along with the anti-Orthodox agenda of many media outlets, make rabbis prime targets of unverified rumors and allegations. Common sense, common decency, and the obligation to respect Torah scholars all dictate that we avoid reaching conclusions based on hearsay or melodramatic headlines, and reserve judgment until allegations brought against Torah scholars are confirmed.

This warning was issued already by the Rambam in one of his published responsa (*Teshuvos Ha-Rambam*, 111), where he addresses the situation of a well-respected scholar who served as his congregation's cantor, and about whom rumors spread of serious misdeeds. The Rambam devotes the bulk of his responsum to emphasizing that no one should be demoted from his post based on rumors, particularly if that individual has adversaries with a motive to sully his reputation. Drawing upon the Gemara's discussion in *Maseches Moed Katan* (17a), the Rambam writes that a Torah scholar who is suspected of wrongdoing should be privately reprimanded, and if he mends his ways, then he may retain his post. It is only if the wrongdoing is committed publicly that he must be demoted.

Similarly, the *Chasam Sofer* (*Teshuvos*, O.C. 1:175) addresses the case of a גבאי צדקה — a director of a charity fund — about whom rumors spread of an inappropriate relationship with a certain non-Jewish woman. In the wake of these rumors, community members pressured the rabbi to remove him from his post, but the rabbi refused. The *Chasam Sofer* emphatically supported the rabbi's decision, asserting that no one should be deposed based on rumors and hearsay:

אין לפסול איש על ריגון וקול בעלמא, ואין להחזיק הקול אלא בעדים ברורים.

One should not disqualify a person based on murmurings and mere rumors, and the rumors should be verified only with reliable witnesses.

The *Chasam Sofer* writes that in the end, the person confessed to his wrongdoing, and he was promptly dismissed from his position.

Another example appears in a responsum of Rav Meir Simcha of Dvinsk (13), who was asked about a certain *shochet* who was imprisoned by a non-Jewish court for an alleged crime. Rav Meir Simcha ruled that the court's guilty verdict did not suffice as grounds for removing this *shochet* from his post, as the courts at that time could not be trusted.

Of particular relevance to our discussion is a responsum by Rav Aharon Walkin of Pinsk in his *Zekan Aharon* (30), addressing the question posed to him by Rav Zalman Sorotzkin concerning a *shochet* who was rumored to have had occasionally visited the home of a woman suspected of prostitution. Rav Walkin writes that sexual impropriety does not, strictly speaking, disqualify someone from serving as *shochet*, but additionally, the *shochet* in question should not be dismissed solely on the basis of rumors. Writing with particular passion and vehemence, Rav Walkin says that as disturbing as these rumors were, and notwithstanding the fact that a person filling such a distinguished role must have an unimpeachable record, it is forbidden to remove a person from a post based on mere hearsay:

גם אני מרחוק הנני נרעש ונפחד לשמוע כזה על משרת בקודש שנצרך להיות מצויין ביר"ש שכם אחד יותר על סתם בני אדם, אבל בכ"ז בבואי לחתוך עליו דין תורה, את האלקים אני ירא לשפוך עליו כל חמתי ולירד לחייו לקפח פרנסתו דהוא גברא דתלי ביה טפלי. וכל גופא מרתע בי להיות שוחט ולשחוט אב לבנים ובעל לאשה על יסוד שמועות קלושות כאלה... השתא שו"ב ששוחט בהמות אם ידיו מרתתות בו שחיטתו פסולה, כ"ש אני שבאתי לשחוט נפשות אדם, ולא רק ידי אלא כל גופי מרתת, היאך אוכל לשחטו בשעה שעפ"י דין תורה אין יסוד לזה? האם אפשר להתחסד יותר מהתורה עצמה?

I, too, even from afar, am shaken and horrified to hear such things about someone serving in a sacred post, who is supposed to be outstanding in fear of God, on a level above most people. But nevertheless, as I come to decide Torah law with regard to him, I am too fearful of God to pour my wrath upon him, to disrupt the livelihood and deny the sustenance of that person accused of wrongdoing. My entire body shudders [at the thought of] being a slaughterer and slaughtering a father of children and husband of a woman on the basis of weak rumors such as these... A *shochet* who slaughters animals — if his hands tremble, his slaughtering is invalid; all the more so, then, as I come to slaughter human lives, not only my hands, but my entire body trembles. How can I slaughter him when I know that according to Torah law there is no basis for this? Is it possible to be more pious than the Torah itself?

Rav Walkin advised Rav Sorotzkin to have the *shochet* make a formal promise to avoid going anywhere near the house in question, and, as a precaution, to inspect his knife twice each week for a year.

This responsum underscores the extreme caution that is needed before acting upon rumors of misconduct, even as it points to the need for prudent and discreet measures in response to such rumors to ensure that the alleged misconduct does not continue.

Moreover, we must bear in mind the Gemara's instruction in *Maseches Berachos* (19a), "If you saw a Torah scholar who committed a transgression at night, do not suspect him the next day because...he definitely repented." In other words, not every wrongful act committed by a religious leader warrants public condemnation and a public outcry. Rabbis, like all people, may be flawed and plagued by weaknesses and occasional lapses in judgment. A person with a reputation of piety who is seen acting wrongly on one occasion must be given the benefit of the doubt that he has acknowledged his wrongdoing and has repented. Accordingly, the *Chafetz Chayim* writes (*Hilchos Lashon Ha-Ra* 4:14):

וכל שכן אם הוא איש תלמיד חכם וירא חטא, אך עתה גבר יצרו עליו, בודאי עון גדול הוא לפרסם חטאו ואסור אפילו להרהר אחריו כי בודאי עשה תשובה, ואף אם יצרו נתחזק עליו פעם אחת, נפשו מרה לו אחר כך על זה ולבבו ירא וחרד מאד על אשמתו...

All the more so, if the person is a Torah scholar and God-fearing, but now his evil inclination overcame him, it is definitely a grievous sin to publicize his wrongdoing, and it is forbidden even to suspect him, because he definitely repented, and although his evil inclination overpowered him on one occasion, his soul is distressed over this afterward, and his heart fears and trembles greatly out of guilt...

Our discussion, then, relates to the unfortunate situations of Torah scholars who have been determined to regularly engage in improper behavior, and the question then arises as to whether people may continue learning from them or making use of their inherently valuable Torah resources.

Rabbi Meir and Elisha ben Avuya

The most famous example of a student learning Torah from a disgraced rabbi is Rabbi Meir, who continued studying under his teacher, Elisha ben Avuya, even after Elisha abandoned Jewish faith and become a heretic, whereupon the rabbis began derisively calling Elisha ben Avuyah *Acher* ("The Other"). The Gemara in *Maseches Chagiga* (15b) questions Rabbi Meir's practice to learn from *Acher*, on the basis of a verse in *Sefer Malachi* (2:7): כי שפתי כהן ישמרו דעת ותורה יבקשו מפיהו כי:

מלאך ה' צבאות הוא — “For the lips of a *Kohen* shall preserve knowledge, and they shall seek Torah from his mouth, because he is an angel of the Lord of Hosts.” The verse here urges us to “seek Torah” from a teacher who can be described as “an angel of the Lord of Hosts,” and thus Rabbi Yochanan, as the Gemara cites, established that one may not study Torah from a teacher who conducts himself improperly and therefore does not resemble an “angel.” How, then, was Rabbi Meir permitted to learn Torah from an apostate?

The Gemara answers that Rabbi Meir based himself on other verses, which indicate that one may learn Torah wisdom even from sinful people.¹ To reconcile the seeming contradiction between these verses and Malachi’s admonition to study only from rabbis who resemble an “angel,” the Gemara distinguishes between a גדול and a קטן — meaning, between great scholars, like Rabbi Meir, and people of lesser stature. Exceptional scholars, who are capable of absorbing the valuable wisdom of a wayward rabbi without coming under his negative influence, may do so, but others must avoid such rabbis and not learn from them.²

The Gemara then proceeds to cite an aphorism that was reportedly spoken by the Jews of *Eretz Yisrael*: “Rabbi Meir ate the fig and discarded the peel.” He had the ability to distinguish between the “fig” — the genius of Elisha ben Avuya’s Torah wisdom — and the “peel” — his heretical beliefs. This statement is likely brought to explain the distinction drawn between קטן and גדול, noting that only those who reached a level where they are capable of discarding the “peel” may study under a Torah scholar who acts improperly.

Does Halacha Accept Rabbi Meir’s View?

Tosfos apply this distinction in reference to the Gemara’s comment (*Masechet Ta’anis* 7a) permitting studying only from a תלמיד חכם הגון — an upstanding Torah scholar. Noting the Gemara’s discussion in *Chagiga* regarding Rabbi Meir and Elisha ben Avuya, *Tosfos* explain that Rabbi Meir was exceptional due to his special stature, and thus he was permitted to study under Elisha ben Avuya despite the general prohibition against learning under sinful scholars.

Among later *poskim*, however, we find different views as to whether this

1. The verses are שמועי בת וראי והטי (Mishlei 22:17), and הט אונק ושמע דברי חכמים ולבך תשיית לדעתי (Tehillim 45:11), both of which are interpreted by the Gemara as referring to studying Torah from one who conducts himself improperly (see Rashi).
2. This is how Rashi explained the rationale underlying the Gemara’s distinction between a גדול and a קטן. For a different explanation, see Maharal, *Nesivos Olam* (*Nesiv Ha-Torah*, chapter 8).

distinction is accepted as normative *halacha*. The Rambam (*Hilchos Talmud Torah* 4:1) codifies the prohibition against learning from a rabbi who acts improperly, without making an exception for people of special stature:

הרב שאינו הולך בדרך טובה אף על פי שחכם גדול הוא וכל העם צריכים לו, אין מתלמדים ממנו עד שובו למוטב.

A rabbi who does not follow the proper path, even if he is a great scholar and everyone needs him — people should not learn from him until he returns to proper conduct.

The Rambam's ruling is cited by the *Shulchan Aruch* (Y.D. 246:8).

The *Shach* raises the question of why the Rambam and *Shulchan Aruch* do not make an exception for a גדול, and instead appear to forbid all students from studying under a sinful rabbi. He suggests that the Rambam perhaps felt that in his time, all people were considered קטנים and should not be permitted to study under a wayward teacher. In a somewhat similar vein, the Chida (*Birkei Yosef*, Y.D. 246:9) suggests that the Rambam viewed the exception made for a גדול as applicable only in the very rare case of an extraordinary and unique scholar, such as a Rabbi Meir. For this reason, the Rambam did not codify this exception in presenting the prohibition against studying from a sinner, even though, as some have speculated, the Rambam relied on this distinction as the basis for his study of the works of Aristotle and other non-Jewish philosophers.³ Although in principle a גדול is permitted to study from a wayward rabbi, the Rambam chose not to codify this provision, because, in the Chida's words, לא רבים יחכמו כרבי מאיר, — “Not everyone is as wise as Rabbi Meir, and if he [the Rambam] would say that it is permissible for a גדול, everyone would consider himself a גדול in his mind, and then fall into the trap.” The Chida similarly writes in his *Sha'ar Yosef* (*Horiyos* 12a):

כל אחד מחזיק עצמו לגדול הדור שניתנה לו בינה יתירה ואין באחיו גדול ממנו, ומשום הכי לא רצה לכתוב חילוק זה.

Everyone considers himself the leading sage of the generation to whom

3. See also the Chida's comments in *Devarim Achadim*, p. 174, and *Or Ha-Chayim* to *Devarim* 12:28.

Several *Acharonim* noted that the Rambam, at the beginning of his *Guide for the Perplexed*, cites one of the two verses that were suggested as bases for Rabbi Meir's decision to continue studying from Elisha ben Avuya (הט אונן ושמע דברי חכמים ולבן תשית) (לדעתו). The reason, some have conjectured, is that the Rambam sought to justify his intensive engagement in the works of gentile philosophers, whom he cites extensively in the *Guide*. See *Yad Shaul*, Y.D. 246:5.

special wisdom has been granted, and [thinks] there is none greater than him among his peers. Therefore, [the Rambam] did not wish to write this distinction.

On the basis of this approach, several authorities concluded that as a practical matter, it is forbidden nowadays to learn Torah from a sinner. This is the view adopted by the *Sha'arei De'ia* (Y.D. 246:3), and, more recently, by Rav Ovadia Yosef (*Yabia Omer*, Y.D. 7:19).

The *Shach* also cites a second possibility in the name of his father, suggesting that although the Gemara justified Rabbi Meir's practice by distinguishing between a קטן and a גדול, this represents a minority view that is not accepted as the *halacha*. The accepted position is that studying under an iniquitous rabbi is forbidden across the board, without any exceptions. This answer is also given by the *Lechem Mishneh*. Similarly, the *Ein Yaakov* cites those who observe that in *Maseches Moed Katan* (17a), the Gemara forbids learning from a rabbi who is suspected of inappropriate conduct, without distinguishing between different kinds of students. Apparently, the Gemara in *Moed Katan* does not accept the distinction drawn by the Gemara in *Chagiga*, and maintains that it is never permissible to learn from a wayward rabbi. Moreover, as some writers have noted,⁴ the Gemara in *Moed Katan* forbids studying from a sinful teacher even if צריכין ליה רבנן — “the rabbis need him” for Torah knowledge and instruction. The Gemara appears to refer to a rabbi who is needed even by the scholarly elite, and yet it forbids even these outstanding students to learn from him, indicating that the distinction between גדול and קטן is not accepted as normative *halacha*.⁵

If, indeed, this question of whether an exceptional student may study under a sinful rabbi is subject to debate, it might depend upon the general question as to the reason that *halacha* forbids learning Torah from a sinner. The distinction

4. See for example, Rav Menachem Krakowski's *Avodas Ha-Melech (Hilchos Talmud Torah)*.

5. One might question this approach, however, in light of the Gemara's comments in *Maseches Makkos* (10a) concerning the case of a rabbi or student who accidentally kills and must therefore relocate in an עיר מקלט (city of refuge). The Gemara cites a ruling that in the case of a student, his rabbi must go with him to the עיר מקלט, so that he may continue learning. Commenting on this *halacha*, the Gemara warns that a rabbi should not teach a תלמיד שאינו הגון — a student who does not act properly — as such a student is prone to accidentally killing, and this would require the rabbi to relocate in an עיר מקלט. The Gemara also instructs that when a rabbi relocates to an עיר מקלט, his students must join him, but we do not find any parallel comment warning against learning from a רב שאינו הגון. The Maharsha explains that the Gemara could not issue this kind of blanket warning, because a גדול is allowed to learn from a teacher who acts improperly. Clearly, the Maharsha assumes that the distinction between a קטן and a גדול is accepted as authoritative, as perhaps implied by the Gemara there in *Makkos*.

between a קטן and a גדול is likely predicated on the assumption that the prohibition stems from the concern that the teacher will negatively influence the student, and it therefore allows for exceptions for those unique individuals who can be assured to withstand such influence. One could suggest, however, that studying from a sinner is inherently problematic, and not merely because of the potential repercussions. Rav Simcha Zissel Ziv Broida (the “Alter of Kelm”) writes in his *Chochma U-Mussar*, based on the teachings of Rav Yisrael Salanter, that if a rabbi with an unrefined character teaches Torah, אין תורתו תורה כלל — his words of Torah do not qualify as valuable Torah at all. A sinful rabbi, Rav Broida writes, is incapable of arriving at the truth of Torah, and for this reason the Gemara requires studying only from a rabbi who “resembles an angel,” as only such a rabbi’s Torah knowledge and wisdom can be regarded as “Torah.”⁶ According to this approach, it is unlikely that exceptions should be made for anyone, since irrespective of any concerns of negative influence, the material that is taught has no value. This outlook perhaps underlies the position taken by the aforementioned *poskim* that studying from sinners is forbidden for all people, regardless of their stature of scholarship and piety.⁷

Public and Private Study

A different approach to explaining the Rambam’s view is suggested by Rav Nachum Eliezer Rabinovitch in his *Yad Peshuta* commentary to *Mishneh Torah*. Rav Rabinovitch observes that the Rambam links this prohibition with the prohibition against teaching a תלמיד שאינו הגון — a student who conducts himself improperly. The Rambam establishes that one should not teach Torah to a student who “follows an improper path,” but should rather guide such a student towards appropriate behavior, after which מכניסין אותו לבית המדרש ומלמדין

-
6. In a similar vein, Rav Yaakov Dovid Wilovsky (the “Ridbaz”), in *Nimukei Ridbaz (Parshas Teruma)*, cites Rav Chaim of Volozhin as commenting that a person with heretical ideas is incapable of arriving at correct Torah conclusions: מי שיש בו מינות לא יזכה לכוון לאמיתה של תורה. Rav Wilovsky explains that correct understanding of Torah must be received from the Almighty, and thus only those who fully believe in God are capable of grasping the truth of any Torah concept.
 7. Interestingly, Rav Chaim Steinberg (*Mishnas Chayim, Parshas Toldos*, 96), suggests that this might be the reason why the Rambam needed to mention that one may not learn from a sinful rabbi עד שובו למוטב — until he returns to the proper mode of conduct. One might have thought that since a rabbi’s Torah loses all validity if he acts improperly, one may not study his Torah even after he repents and abandons the path of sin. The Rambam therefore noted that once the rabbi has repented, students may again learn from him and gain from his knowledge and wisdom.

אורו — “he is brought into the study hall and then taught.” In other words, a wayward student should be taught privately until his behavior improves, at which point he may be allowed to join the *beis midrash* and learn with the other students. The Rambam then writes, אין מתלמדין טובה... וכן הרב שאינו הולך בדרך טובה — “**Similarly**, a rabbi who does not follow the proper path... people should not learn from him.” The word וכן suggests a degree of parity between these two *halachos* — the prohibition against teaching a wayward student and the prohibition against learning from a wayward teacher. Accordingly, Rav Rabinovitch suggests, the second prohibition parallels the first, and thus we must distinguish between public lecturing and private study. Just as a wayward student is not allowed into the *beis midrash* to study with other students, a wayward teacher is not permitted to serve in any sort of public capacity, and this is the Rambam’s intent when he writes, אין מתלמדין ממנו — he may not be allowed to teach groups of students. Exceptional individuals, however, the likes of Rabbi Meir, are permitted to study from a wayward rabbi, just as a wayward student should be taught privately until he is deemed worthy of joining the *beis midrash* to participate in public Torah study.

According to this approach, the Rambam accepts Rabbi Meir’s position that a גדול may study from a wayward teacher, but this is permissible only on an individual basis, as the teacher may not be allowed to fill any sort of public educational role.

In any event, it is clear that studying Torah from a confirmed sinner is, as a general rule, forbidden, even if different views exist as to whether an exception may be made for especially pious and talented students.

Who is a “Wayward Teacher”?

The Rambam and *Shulchan Aruch* define the prohibition as forbidding studying from a teacher שאינו הולך בדרך טובה — “who does not follow the proper path.” To whom exactly does this refer? After all, even the greatest rabbis and *tzadikim* are far from perfect, and the *Tanach* tells of the mistakes made even by Moshe Rabbeinu and King David. Undoubtedly, then, when the Gemara requires studying only from a teacher who “resembles an angel,” it does not refer to a person of moral and spiritual perfection, as such people do not exist. Who, then, is considered to fail to “follow the proper path,” and thus loses his halachic eligibility to teach Torah?

The answer may perhaps be found in the commentaries of the *Rishonim* to *Maseches Moed Katan* (17a), in reference to the story told there of a Torah scholar דהו סנו שומעניה — whose reputation was disgraced. Rav Yehuda, the Gemara relates, debated as to whether he should act upon the damning reports,

until he was told of Rabbi Yochanan's statement that one must not learn from a rabbi who does not "resemble an angel." At that point, he excommunicated the disgraced rabbi. The Gemara does not specify the precise nature of the rabbi's misconduct, informing us only that he traveled to a remote place, where no one knew him, to commit his wrongdoing, so as to avoid public disgrace. We are not told in what kind of wayward behavior he engaged.

Several different explanations appear in the *Rishonim*. The *Talmid Rabbeinu Yechiel* (cited in *Kovetz Shitos Kamai*) explains that the rabbi committed adultery. According to this interpretation, we might be compelled to limit the prohibition against learning from a wayward rabbi to cases of a rabbi who committed a grave capital offense, such as adultery. The Ritva, however, writes that the scholar in this story was פרוץ קצת בזימה — "somewhat licentious" — in that היה מתייחד עם הפנויות והיה כיעור גדול לצורבא מרבנן — "he would seclude himself with single women, which is a great disgrace for a Torah scholar." According to this reading, we should seemingly apply this law to any rabbi who commits an act which constitutes כיעור גדול לצורבא מרבנן — a disgrace for a Torah scholar. Even if the act did not violate a capital Biblical offense, it nevertheless renders the rabbi ineligible to teach Torah if it is deemed grossly inappropriate for a person serving this lofty role.

A different formulation appears in the commentary of Rabbeinu Chananel, who interprets שהיה שם שמיים מתחלל על ידו דהו סנו שומעניה to mean חילול ה' (defamation of God's Name). Rabbeinu Chananel elaborates further by citing the Gemara's discussion in *Maseches Yoma* (86a) concerning the definition of חילול ה'. One of the definitions given is מחמתו של שחבירי מתביישין מחמתו — "anyone whose colleagues are ashamed because of what is told about him." According to Rabbeinu Chananel, this is the kind of Torah scholar from whom the Gemara in *Moed Katan* forbids learning, and who deserves excommunication. As examples of this kind of behavior, Rabbeinu Chananel mentions the case of a Torah scholar who engages in the study of heresy or in frivolous drinking. This definition is accepted by the Rosh and the *Tur* (Y.D. 334), and based on these sources, the *Shulchan Aruch* (Y.D. 334:42) rules:

אי סני שומעניה, כגון שמתעסק בספרי אפיקורוס ושותה במיני זמר או שחבירי מתביישין ממנו ושם שמיים מתחלל על ידו – משמתין ליה.

If [a scholar's] reputation is disgraced, such as if he engages in books of heresy or drinks amid all kinds of song, or if his colleagues are ashamed of him, and he causes the Name of God to be defamed — he is excommunicated.

As mentioned, Rav Yehuda reached the conclusion that the scholar in question

deserved excommunication because of the prohibition against studying Torah from a teacher who acts inappropriately. We might thus infer that this prohibition applies to any rabbi whose “colleagues are ashamed of him” and who “causes the Name of God to be defamed.”

If so, then the category of *שומעיה* is quite broad, and may also depend on time and place. Conceivably, any kind of behavior that brings shame to the rabbinate and to Torah, even if it does not entail any specific halachic violation, would fall under this category and render a rabbi unfit for Torah education and leadership. Therefore, even if a rabbi engages in conduct which was deemed acceptable in the past but is now considered inappropriate, such that he embarrasses his colleagues and arouses contempt for Torah, it would seemingly be forbidden to learn Torah from him.⁸

Studying a Disgraced Scholar’s Works

Until now, we have discussed the question of learning directly from a disgraced rabbi. We will now turn our attention to the question of whether one may access his materials, such as his books or recordings.

As mentioned earlier, the requirement to study only from an “angelic” rabbi is inferred from the verse in *Sefer Malachi* (2:7), “They shall seek Torah from his mouth, because he is an angel of the Lord of Hosts.” Rav Yirmiyahu Löw, in his *Divrei Yirmiyahu* commentary to the Rambam’s *Mishneh Torah* (*Hilchos Talmud Torah* 4:1), boldly asserts (citing his father) that this *halacha* refers only to studying Torah from the “mouth” of a wayward scholar, meaning through direct communication, as opposed to through the written word. Direct study from an evildoer exposes the student to the teacher’s sinful qualities and conduct, which could negatively impact the student. However, Rav Löw posits, when one

8. One example might be reports that appeared several years ago of a prominent New York rabbi who would bring teenagers from his congregation, as well as young interns, with him to the sauna, where they would sit together without clothing. Although it seems clear that no crimes or technical halachic violations were committed, such activity might very likely fall under the category of *חבירי מתביישין ממנו ושם שמיים מתחלל על ידו*, which disqualifies a rabbi from teaching Torah.

We might also wonder how this *halacha* might apply to a rabbi who expresses his views in an especially harsh and offensive tone. In today’s media culture, there is great sensitivity to the way opinions are formulated, and an especially high standard of dignity and courtesy is expected from religious leaders. Possibly, then, a rabbi or teacher who expresses himself in a manner deemed by today’s standards inappropriately coarse and unbecoming, which brings disgrace to the rabbinate, would fall under the category of *חבירי מתביישין ממנו ושם שמיים מתחלל על ידו*.

reads the writings of a wayward scholar, he can access the valuable wisdom and knowledge from the material without exposing himself to the author's sinful character. As such, there is no prohibition against reading material authored by a sinful scholar.⁹ On this basis, Rav Löw sought to reconcile this *halacha* with the fact that the Rambam studied the works of non-Jewish scholars.

This was also the view of Rav Yosef Zecharya Stern, as articulated in a letter defending his occasional citation of Moses Mendelssohn's works, in which he approvingly mentions this passage from *Divrei Yirmiyahu*.¹⁰

It stands to reason that the exception made by Rav Löw for written material would apply to recordings as well. Rav Löw explains the prohibition as based on the negative influence that would result from the relationship between the student and the wayward teacher: שחיבור עם רשע רע וגורם רעה והשחתה לאדם — “for the connection with an evil person is bad and causes a person harm and [spiritual] destruction.” One who listens to or views a recording of a rabbi's lecture does not, seemingly, forge the kind of חיבור (“connection”) that could yield a deleterious spiritual effect. As such, Rav Löw would likely permit using recorded material of a sinful teacher.

However, other *poskim* dispute this position. Rav Shmuel Wosner (*Shevet Ha-Levi* 3:145) writes explicitly that one may not read the works of a wayward scholar:

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

Just as the Sages said that it is forbidden to study Torah from a wayward rabbi, it is likewise forbidden to study Torah that was written or printed by someone who is wayward, as this undoubtedly causes harm.

In Rav Wosner's view, reading material written by a sinner — and even material authored by an upstanding scholar, but printed by a sinner — can cause a person harm, and is thus forbidden. This is also the ruling of Rav Avraham Yaffe Shlesinger (*Be'er Sarim, Likutim* 39:3).¹¹

We should add that according to the comments of the Alter of Kelm cited

9. It should also be noted that when the Gemara initially questioned the legitimacy of Rabbi Meir's studying under Elisha ben Avuya, it asked, **מפומא** דאחר, — “How did Rabbi Meir learn **from the mouth** of *Acher*,” perhaps suggesting that the prohibition relates specifically to study through direct, verbal communication.

10. The letter was written to Rav Chaim Chizkiya Medini (author of *Sedei Chemed*), and appears in *Pakuos Sadeh*, a booklet published by Rav Medini in Jerusalem in 1900, and in *Sedei Chemed (Ma'areches Alef*, p. 188).

11. See also Rav Menachem Giat, *Toras Chacham*, vol. 1, p. 371.

earlier, that the Torah taught by an evildoer cannot actually be considered “Torah,” there is certainly no reason to distinguish between direct contact and studying from an evildoer’s written or recorded materials.¹²

Thus, different views exist as to whether one may study from written or recorded Torah materials produced by a sinner.

Studying Torah Produced Before the Scholar’s Misconduct

If indeed this prohibition includes studying from a disgraced scholar’s printed or recorded material, the question becomes whether this applies even to material produced before the scholar turned sinful. Does this material become illegitimate once the author or speaker sins, or does it retain its validity despite his subsequent fall into the abyss of sinful conduct?

The answer to this question appears to emerge from a responsum of Rav Moshe Feinstein (*Iggeros Moshe*, E.H. 1:96) concerning the case of a composer of popular religious songs who became known as a sinner.¹³ The question arose whether it was permissible to sing the songs he composed while he was still reputed to be a God-fearing, upstanding Jew, and, if so, whether it was permissible to also sing the songs composed after he was determined to act sinfully. Rav Moshe ruled that singing any of this musician’s songs is permissible, for several reasons, some of which are relevant also to the case of a wayward Torah scholar.

The basis for considering forbidding the use of these songs, Rav Moshe writes, is the Rambam’s ruling (*Hilchos Yesodei Ha-Torah* 6:8) that a *sefer Torah* written by a heretic should be burned, כְּדִי שְׁלֹא לְהַנִּיחַ שֵׁם לְמִינִים וְלֹא לְמַעֲשֵׂיהֶם — “in order not to make a name for the heretics or their deeds.” One might have thought to extend this *halacha* and forbid making use of anything produced

12. The Gemara in *Maseches Sanhedrin* (106b) recounts that God acceded to David’s request that the words of Torah taught by Doeg and Achisofel — two Torah scholars who became evil and betrayed David — should not be shared in study halls. This would seem to indicate that the Torah taught by a wayward scholar should not even be cited, let alone read and studied. In truth, however, it is likely that this measure was taken as a special penalty against Doeg and Achisofel for their especially grievous crimes. Indeed, the Gemara states that God initially thought that their words of Torah should be shared among scholars, until David requested that they should never be cited. It thus appears that this was an extraordinary provision that cannot necessarily be applied in cases of other sinners. Moreover, the Maharal (*Nesivos Olam, Nesiv Ha-Torah*, chapter 8) cites this comment of the Gemara as proof that one should not study Torah that was taught by a heretic. As such, this comment does not necessarily indicate that one must avoid the Torah of other sinners, who do not hold heretical beliefs.

13. Rav Moshe writes that this musician “brings unmarried men and unmarried women together and plays before them.”

by a sinner, as one thereby publicizes him and his work. Rav Moshe dismisses this conclusion, noting that, for one thing, the Rambam's ruling applies only to Torah scrolls written after the person became a heretic; there is no indication that a *sefer Torah* written by a pious scribe is rendered invalid once he becomes a heretic.¹⁴ Second, Rav Moshe asserts that the rule of *שלא להניח שם* applies only to heretics, those who deny the basic tenets of Jewish faith. It does not apply to those who are believers but act inappropriately, such as the composer in question. Therefore, Rav Moshe writes, as long as there is no indication that this composer embraced heresy, his songs may be sung without any concern.¹⁵

Both of these arguments directly apply to the case of a disgraced scholar. Even though *halacha* forbids studying from such a rabbi after he has been determined to be sinful, the material he produced before then is permissible for use, particularly if there is no indication of heresy, such as cases of rabbis who succumbed to greed, lust, and other vices.

Learning from a Disgraced Rabbi who Repents

In conclusion, let us turn our attention to the situation of a disgraced rabbi who appears to sincerely regret his misconduct and to have undergone a process of genuine *teshuva*. The Rambam and *Shulchan Aruch* forbid learning

14. Rav Moshe cites as his source the *Pischei Teshuva*, Y.D. 281:2.

Interestingly, Rav Yaakov Sasportas (1610–1698), one of the first outspoken opponents of Shabtai Tzvi, writes in his *Ohalei Yaakov* (68) that communities should not adopt the practice championed by Shabtai Tzvi to recite *Birkas Kohanim* every day, despite the sound halachic basis for this practice, so that this evil person would not receive credit for a worthwhile practice. He cites as his source the Rambam's remark in *Hilchos Ma'aser* (9:1) identifying Yochanan Kohen Gadol, who is credited with instituting the requirement to tithe produce purchased from an *עם הארץ* ("ignoramus"), as the high priest who succeeded Simon the Just. The *Kesef Mishneh* explains that the Rambam made this comment to clarify that he does not refer to the other Yochanan Kohen Gadol, who lived later and who became a heretic at the end of his life. Rav Sasportas understood that if this had been the later Yochanan Kohen Gadol, the Sages would not have memorialized his enactment, since he subsequently became a heretic. This would appear to suggest that according to Rav Sasportas, if a rabbi becomes a heretic, it is forbidden to cite even the scholarship he produced while he was still a scholar in good standing, in contradistinction to Rav Moshe's ruling. (Rav Moshe also cites the Rambam's comment, but explains it differently.)

15. Rav Moshe also contends that the law of *שלא להניח שם* applies only to matters of sanctity, such as a *sefer Torah*, but not to other products, such as music.

from a wayward rabbi עד שובו למוטב — “until he returns to proper conduct.”¹⁶ Significantly, the *halacha* does not require distancing oneself from a disgraced scholar forever; it takes into account the possibility of *teshuva*, the opportunity given to all sinners to repent and regain their good standing before God and before their peers.

The question, however, becomes how we determine that the rabbi has repented. In many cases, the rabbi had successfully projected an image of genuine piety even as he committed the most unspeakable crimes. A rabbi who was initially able to convince nearly everyone of his spiritual greatness as he perpetrated grave religious and ethical wrongs is likewise capable, after he is caught, of convincing the public that he has since repented. What measures are required to trust that such a rabbi has truly “returned to proper conduct,” such that he may once again be turned to as a source of Torah scholarship and guidance?

The *poskim* discuss the issue of verifying a sinner’s *teshuva* with regard to eligibility for *eidus* (giving testimony). *Halacha* disqualifies various categories of sinners for *eidus*, but allows these sinners to regain their eligibility through repentance. The case of a disgraced rabbi most likely resembles that of a מומר — a person who is known to be a habitual and unabashed sinner. Regarding such a person, the Rama (C.M. 34:22) writes, citing the Maharik:

מומר שחזר בו וקיבל עליו תשובה כשר מיד אע”פ שלא עשאה עדיין.

A מומר who had a change of heart and took it upon himself to repent is eligible immediately, even though he did not yet perform [repentance].

According to the Maharik, the moment a מומר affirms his commitment to repent, he regains his eligibility to testify, even before he actually takes concrete measures of *teshuva*. The Maharik draws proof to his view from the Gemara’s ruling in *Maseches Gittin* (35b) concerning a *Kohen* who marries a woman whom he is forbidden to marry, such as a divorcee. The Gemara rules that although such a *Kohen* may not perform the *avoda* in the *Beis Ha-Mikdash*, he regains his eligibility to perform the *avoda* the moment he vows to divorce the woman, even before he actually grants the divorce. Just as a verbal commitment of repentance suffices to allow this *Kohen* to again perform the *avoda*, similarly, the Maharik maintains, a habitual sinner’s verbal commitment to repent suffices for him to regain his eligibility to testify.

However, the scope of this *halacha* is subject to debate among the *Acharonim*. The *Shach* asserts that this rule may be applied broadly to all cases of habitual sinners. Once they verbally commit to repent, they regain their eligibility. Rav

16. The *Shulchan Aruch*’s formulation is עד שיחזור למוטב.

Yehonasan Eibushitz, however, disagrees (*Tumim* 34:21). In his view, in order for a sinner to regain his eligibility, we require דבר מוכיח וניכר לכל שחזר — “something that proves and makes it clear to all that he has repented.” In the case of the מומר discussed by the Maharik, the very fact that he withdrew from the non-Jewish crowd with whom he had been associating suffices as proof of his sincere resolve to change, and thus he regains his eligibility even before we see him follow up on his commitment. For this same reason, Rav Eibushitz explains, a *Kohen* who had married a divorcee must formally vow to divorce her before regaining his eligibility, and a mere proclamation does not suffice. Only a formal vow provides the clear evidence that is needed for a sinner to demonstrate his resolve to repent.

One may, at first glance, draw proof to the *Tumim*'s view from the *Shulchan Aruch*'s later ruling (34:30–31) concerning מפריחי יונים — people who train birds to capture other birds — and משחקי בקוביא — gamblers. Such people are disqualified for *eidus*, as the *Shulchan Aruch* states earlier (34:16), because these activities either resemble or generally entail theft, and they remain disqualified even after they repent, until they disassemble the tools used for these undignified activities. This requirement would seem to prove that, as the *Tumim* claims, a verbal commitment to change does not suffice, and that we demand a דבר מוכיח וניכר לכל — some clear indication of a genuine change of heart.

This point was noted by the *Nesivos* (*Bi'urim* 34:13), who follows the *Shach*'s lenient ruling that it suffices for a sinner to avow his commitment to repent. In defense of this position, the *Nesivos* writes that an exception is made for עבירה ממון — sins involving material lust, such as gambling. Habitual sinners of this kind are especially prone to recidivism, and thus a mere declaration of a desire to change is insufficient to affirm repentance and restore their status of presumed eligibility.

Although the *Nesivos* specifies the exception of חימוד ממון, we might wonder whether it may apply to other categories of sin as well. Withdrawing from habitual sexual indiscretion, including child molestation, would seem to be no less difficult than withdrawing from habitual financial misdemeanors. Logically, and in consideration of human nature, we have no more reason to rely upon a verbal proclamation of repentance in the case of a sexual offender than in the case of a gambler. Possibly, then, even the *Shach* and *Nesivos* would concede that when dealing with a rabbi found guilty of frequent sexual misconduct, a mere declaration of a change of heart would be insufficient, and a more compelling demonstration of *teshuva* would be required before he could be allowed to resume teaching Torah.

It emerges that according to Rav Yehonasan Eibushitz, a sinner does not regain his presumed status of eligibility until he has demonstratively repented and made it clear that he has firmly resolved to never repeat his offenses.

According to the *Shach*, even a verbal declaration of *teshuva* suffices, but when it comes to certain types of sin, even the *Shach* might concede that the sinner must prove that he has repented.¹⁷

Reinstatement to a Rabbinic or Educational Post

While it is clear that a rabbi who sinned may resume teaching Torah after repenting — notwithstanding the practical question of how to ascertain the sincerity of his *teshuva* — it is questionable whether he may return to his previous formal rabbinic position, even after demonstrable repentance. The basis for this distinction is the contrast between the Rambam's aforementioned ruling, allowing studying from a wayward rabbi once he "returns to proper conduct," and his ruling elsewhere, in *Hilchos Sanhedrin* (17:9): אבל ראש הישיבה שחטא מלקין אותו ואינו חוזר לשררותו. The Rambam here establishes that a ראש הישיבה who sins may not be reinstated to his prior post, even after enduring court-administered corporal punishment. No mention is made of the possibility of his reinstatement after repenting, implying that even though, as the Rambam indicates in *Hilchos Talmud Torah*, a wayward rabbi may resume teaching Torah once he repents, a ראש הישיבה may not return to his position even after performing *teshuva*.

The question then becomes to whom exactly the Rambam refers in this *halacha*, and to which kind of rabbinic posts this rule applies.

Both the *Kesef Mishneh* and the Radbaz, in their respective commentaries to *Hilchos Sanhedrin*, explain that the Rambam refers here to the post of נשיא — the head of the *Sanhedrin*. The Rambam's ruling, according to these commentators, is drawn from the Talmud Yerushalmi, which, in *Maseches Horiyos* (3:1), establishes that a נשיא who commits a sin is not reinstated to his post. If so, then we must address the question of why a נשיא may not return to his position after repenting, and whether this *halacha* may be applicable to other positions of Torah education and leadership.¹⁸

The *Kesef Mishneh* and Radbaz explain that a נשיא may not return to his position of leadership because he may seek revenge against the court that had sentenced him to corporal punishment.¹⁹ According to this explanation, this

17. See also the comments of Rav Mordechai Willig, cited below in the transcription of an interview he gave, where he states that a disgraced rabbi may not be allowed to resume teaching Torah until he undergoes the process of *teshuva* outlined by the Rambam in the second chapter of *Hilchos Teshuva*.

18. For a thorough presentation of the various sources relevant to the Rambam's ruling, see Professor Nachum Rakover's article, "Oved Tzibur She-Sarach Ve-Ritza Es Onsho," at <http://www.daat.ac.il/mishpat-ivri/skirot/180-2.htm>.

19. This explanation is based on the aforementioned passage in the Yerushalmi, which states

halacha is very limited in scope, and applies only to positions of authority that may be abused for the sake of revenge. In virtually all cases of a disgraced rabbi, then, he may return to his prior position after repenting.

However, the *Kesef Mishneh* then adds a second explanation, namely, that even after repenting, the disgraced נשיא cannot ever earn the respect and esteem that the position deserves, and for this reason he is not reinstated. It is unclear, according to this approach, whether this concern for respect is relevant specifically when dealing with the lofty position of head of the *Sanhedrin*, or to any distinguished rabbinic post. Hence, no definitive conclusion can be reached on the basis of this comment of the *Kesef Mishneh*.

The Radbaz, in one of his responsa (6:2078), advances a different explanation of the Rambam's ruling. He writes:

מפני שכל חטאות הנשיא חשבינן להו כאילו עבר בפרהסיא, ואיכא חילול השם טובא.

...because all the sins of a נשיא are considered as though they were committed publicly, and there is thus an especially grave defamation of God's Name.

Generally, when a person serving in a religious post sins privately, the matter can be resolved in a discreet fashion, by privately meeting with the rabbi to reprimand him, quietly imposing whatever punitive measures are appropriate, and ensuring that he has sincerely repented and is committed to never repeating the sinful act. Hence, the Radbaz writes, such a person, in most cases, should not be demoted. The Rambam makes an exception in the case of a נשיא, however, because even his private misdeeds are considered public, due to the uniquely prominent stature of his position. Therefore, reinstating a נשיא who committed even a private offense is akin to reinstating a person who had filled a different public religious role and publicly sinned. His reinstatement would create a grave חילול ה', and is thus forbidden.²⁰

According to the Radbaz, it would seem, the yardstick by which we determine whether a disgraced rabbi may resume his position after repentance is חילול ה'. If his crime became public knowledge, such that his reinstatement would bring dishonor to Torah and the rabbinate, as the public associates him with the

that a נשיא who sinned is not reinstated because חילול ה' דו קטלון ליה, which the *Kesef Mishneh* understood to mean that the reinstated נשיא may seek to kill those who had demoted him.

20. The Radbaz offered this explanation to reconcile the Rambam's ruling in *Hilchos Sanhedrin* with his comments in the responsum noted earlier, which states that no holder of a religious post is demoted after committing a sin, as long as the sin was committed privately.

sin he had committed, then he may never return to his post even after sincere *teshuva*. If so, then the Radbaz's approach may yield important ramifications for most modern-day rabbinic scandals, which, due to the swift flow of information and news, enter the public sphere very quickly. Any serious offense of which a rabbi is found guilty in our day and age *ipso facto* becomes an עבירה בפרהסיא — a public offense — and therefore, according to the Radbaz, it should perhaps be equated with the case of a sin committed by a נשיא, and render the perpetrator permanently disqualified for a rabbinic post.²¹

Rav Moshe Feinstein (*Dibberos Moshe, Gittin*, vol. 1, p. 355) explains the Rambam's ruling much differently, claiming that the term ראש הישיבה in this context refers to one who teaches advanced Torah scholars. A person who fills such a post and is found to have sinned may not return to his position even after repentance, and he is deemed forever unsuitable for this lofty role. According to Rav Moshe, then, ordinary rabbis and teachers may resume their posts after repenting, but those who teach advanced *talmidei chachamim* become permanently disqualified for this job once they have been disgraced.²²

Thus, although a disgraced rabbi may once again teach Torah once he had demonstrably repented and mended his ways, he might still be disqualified for a formal post if this would create a חילול ה' (Radbaz) or if he teaches advanced students (Rav Moshe Feinstein).

Conclusion

In light of what we have seen, the following guidelines apply when a rabbi or educator is alleged to have engaged in inappropriate conduct:

1. One must not reach any definitive conclusions based on hearsay, and judgment must be reserved until rumors of misconduct have been substantiated.

21. Conceivably, however, if the prohibition against reinstatement stems from the consideration of חילול ה', then at least in principle, if the rabbi's sincere repentance is also done publicly and he succeeds in projecting a public image of genuine penitence, then perhaps he should be allowed to return to his prior position. This point was made by Professor Rakover (above, n. 18).

22. Curiously, Rav Moshe cites as the basis for this disqualification the rule mentioned earlier, that a rabbi must resemble a מלאך ה'. It is difficult to understand, then, how Rav Moshe distinguishes in this regard between different kinds of Torah educators, as the rule of דומה למלאך ה' clearly refers to all teachers of Torah. Moreover, the Rambam cites this requirement of דומה למלאך ה' in *Hilchos Talmud Torah*, where he clearly indicates that a disgraced teacher is allowed to teach after he repents. Rav Moshe's distinction therefore requires explanation.

2. If it is confirmed that the rabbi in question engaged in behavior that brings shame to Torah, one may not learn Torah from him.
3. It is questionable whether one may read a sinful rabbi's written works or use his recorded material.
4. Written or recorded material that the rabbi produced before he became a sinner may be used.
5. If a disgraced rabbi has sincerely repented, he may once again teach Torah, though it would appear that according to some views, there must be compelling evidence of true, genuine *teshuva*.
6. At least according to some opinions, even after a disgraced rabbi has genuinely and demonstrably repented, he may not resume his official rabbinic post or educational position if his reinstatement will create a 'חילול ה', or if the position is an especially distinguished post, such as in the case of a Rosh Yeshiva.

INTERVIEWS

Rav Mordechai Willig on *Headlines with Dovid Lichtenstein**

We are not blessed with רוח הקדש, and therefore it's not always possible to predict [when an upstanding rabbi will be exposed as a sinner]. But the truth is that when some of these scandals break, I hear a refrain, "I'm surprised, but not shocked." That means there was a certain suspicion of irregularity in the person's conduct, but we didn't know for sure; we had a little suspicion which we tucked away and went on. Perhaps we ought to be more careful when these warning signs appear, and be more proactive. If a rabbi conducts himself inappropriately with respect to women, and certainly if he violates the specific prohibitions of יחוד (seclusion)... if he creates a situation of excessive dependence, where a young lady is dependent upon this charismatic leader for her spirituality, or he spends an inordinate amount of time talking to women, or sees to it to find out many personal details about her life — these are all warning signs that he may be grooming the young lady for something sinful and horrific. If one sees this kind of behavior, I believe this is a strong enough warning sign to see to it to put a stop to it immediately. And if the person ignores the warnings, I believe this is sufficient cause to terminate such a person's employment in a school for women. I do not believe it is possible to terminate somebody immediately

without warning. We're afraid of something which he may do, and therefore it may be illegal to terminate somebody without prior warning. He's just talking. But, talking is the first stage. There are major organizations — I believe Torah Umesorah is one of them — that have specific guidelines in terms of a man talking to a female on the job, on-site, off-site, etc. These are guidelines which should be formulated appropriately, and if somebody steps over that line, he should be warned of termination if he repeats the violation...

The fact that somebody “rubs you the wrong way,” to my mind, is not enough of a reason to take action against that person. I think that would be inappropriate. At the same time, as *Chazal* put it, למיחש מיבטי — we have to worry that something is there. And if you look in the *Sefer Chafetz Chayim*, [it says] you can warn people not to get close to him. But to destroy his reputation through public exposure — I believe this requires a higher level of evidence... To warn an individual to watch out and not to hire somebody — it is sufficient even if he “rubs you the wrong way,” but as for a public statement that would ruin his reputation, I believe this requires a higher level of proof.

You have to watch out for certain charismatic individuals, especially charismatic rabbis dealing with young ladies. Excessive charisma can be damaging even when rabbis deal with boys and female teachers with girls, as they try recreating people in their image. This can be dangerous. You do need some charisma to influence youngsters to go higher in their spiritual growth, which is the essence of the job of a *rebbe* or *morah* [female teacher]. But you have to set limits, and the more charismatic a person is, the greater the limits that he needs... Even without halachic seclusion, there can be inappropriate conversations which are a warning sign of danger of גילוי עריות.

We should encourage individuals who speak out, [and let them know] that we are going to listen to them very carefully. It is not always possible to believe an unsubstantiated report by one individual and destroy a rabbi who was previously in good standing, because sometimes these things are inaccurate, either intentionally or by mistake. Nonetheless, if there are repeated complaints — we have to learn from our collective mistakes that when there are repeated mistakes, the time to act is now, and we should not wait for worse things to occur.

Any indiscretion with respect to עריות [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 [an arrogant person]. 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 malfeasance. 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. The reality is that גאווה can lead to sins involving גילוי עריות [sexual immorality] and also sins involving money. I know of somebody who was suspected of lying in monetary matters, and one of the *gedolim* said that he can very well end up lying also in terms of עריות, and this proved to be prophetic — this is exactly what happened. Somebody who is honest in all areas of life, he is a דומה למלאך ה' צבאות. Once there's dishonesty, especially when it's combined with hubris — this is a recipe for disaster, and can lead to גילוי עריות as well. But if a person is a sitting rabbi in a shul or in a yeshiva, and he does a good job, but his deficiency is גאווה, I don't know if that is grounds for termination.

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

No, no, no. *Chazal* tell us, אם דומה הרב למלאך ה' צבאות, תורה יבקשו מפיהו; ואם לאו, אל יבקשו תורה מפיהו ["If the rabbi resembles an 'angel of the Lord of Hosts,' then seek Torah from his mouth, but if not, then do not seek Torah from his mouth"]... This kind of sinful behavior is so far from the proper standard, that I believe 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; *Chazal* tell us that he was able to separate the inner Torah from the *kelipa* (shell). This, I believe, is something a man of Rabbi Meir's stature can do, but would not be recommended for others. 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 no longer actually victimizing people.

Should former students maintain their sense of gratitude for what the rabbi had done for them, and try to help him?

Hakaras ha-tov [gratitude] is certainly appropriate. If somebody did something for me, then no matter how bad the person is, I should have *hakaras ha-tov*. The Rambam says that a person should have *hakaras ha-tov* for a parent no matter how bad the parent is. He gives the example of a *mamzer*, when the parent conceived the child in sin. There is still an obligation of כיבוד אב ואם [honoring parents], and the *Sefer Ha-Chinuch* explains that this is because of the obligation of *hakaras ha-tov*, to be grateful. In the case of a scandal with a rabbi, I believe that the *hakaras ha-tov* should not be pervasive, and should be

limited to those individuals who received specific benefit from this person and were not victimized by him. They may show *hakaras ha-tov*.

With regard to giving the person *tzedaka* [in the case of a rabbi who is convicted of a crime and after being released has no way to support himself], the greatest form of *tzedaka*, as the Rambam teaches, is giving somebody a job. If the person in such a case cannot find a job, the greatest charity is to find him a job in the private sector where there are no women, where he can earn a livelihood. Nowhere is it written that he should starve to death. So if somebody had learned and gained from this individual way back when, and he wants to repay him, the best thing he can do is to find him employment somewhere where there are no women. This would be the appropriate way to do things, as opposed to giving him regular charity, which is not so appropriate, because he is not deserving. We can't let him starve, but he should be allowed to support himself through good, old-fashioned hard work, even manual labor if need be. Given the fact that he has disqualified himself from anything in the rabbinic world, he might have to work with his hands and through other activities where these particular *yetzer haras* cannot lead him to sin...

I've come to learn that victims feel upset when the perpetrator receives honor, even after he is dead. I'm not an expert in victim psychology, but people have taught me things. We cannot judge others who have gone through difficult situations such as this.

Teshuva is possible, but who said he did *teshuva*? There was once a situation of a major *kashrus* scandal, and there was a debate in Jerusalem whether the man should be allowed into a shul. Somebody noted that *teshuva* is always possible, but somebody else responded, "Yes, but he didn't do *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. The Rambam writes in *Hilchos Teshuva* (2:4) that a person who does *teshuva* cries out to Hashem בכי ובתחנונים [with weeping and supplication], and he distances himself from that in which he had stumbled. If the sin is interpersonal, he must also ask forgiveness from those whom he had harmed. And, he must be an ענוו וספל רוח [humble and lowly of spirit]. Unfortunately, I know too many of these individuals who were caught in scandalous behavior who, incredibly, still seem arrogant. They haven't lost that aspect of their personalities. So, sure, they can do *teshuva*, but many haven't. 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 [to the question of whether a penitent perpetrator should be welcomed into a community]. 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.

I do not think it is enough [for such a person to perform the kind of repentance needed for a sinner to regain his eligibility for *eidus*]. He needs, as the Rambam writes, to cry and be humbled. This is not a prerequisite for becoming qualified for *eidus*, but I believe it is a prerequisite to accept such a person [a disgraced rabbi] in some way, especially given the down side in terms of the effect on the victims, in the case of abuse. This is not the same as a scandal where the victims bought non-kosher chicken. Great sensitivity and careful evaluation is required...

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.

It is very important for a person whose trust in a rav was broken, whether it is a man or a woman, to try to 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. These individuals should find someone whom they feel they can trust, and any questions they have about things they learned from a scandal-ridden rabbi should be reviewed. They should find a good rabbi whom they feel they can trust, as otherwise their only rabbi is someone who has been exposed [as a sinner].

* Broadcast on 20 Sivan, 5776 (June 25, 2016).

Rav Moshe Sternbuch on Headlines with Dovid Lichtenstein*

Talmidim [of a rabbi who is found to be a sinner] should be told not to have any connection with him, because he is מחלל ה'...

Aveiros that cause a חילול ה' should be publicized, and the public should be warned that this man does not represent religious Jews...

Such a man needs to do *teshuva* very strongly and go to extremes. Normally we're not so happy with extremists, but he must be an extremist... His *teshuva* is different from other people's *teshuva*. He was מכשיל את הרבים, and so he must show [his repentance] very strongly...

* Broadcast on 18 Tammuz, 5776 (July 23, 2016).