

Rabbi Yosef Blau is the Senior Mashgiach Ruchani at Yeshiva University and RIETS. He has been advocating for victims of abuse for over a quarter of a century.

SEXUAL ABUSE IN THE ORTHODOX JEWISH COMMUNITY: AN ANALYSIS OF THE ROOTS OF THE FAILURE TO EFFECTIVELY RESPOND TO THE CRISIS

At the 2005 Orthodox Forum, a paper was presented reporting the results of a study by five psychologists on the rate of sexual abuse reported by Orthodox Jewish Women. The statistics showed that the percentage of women who reported that they had been sexually abused was essentially the same as that reported in studies of the general population. The members of the Forum adamantly rejected the conclusion and argued vehemently against the methodology and the sample used in the study. After such strong opposition, the paper did not appear when the volume of that year's Forum was published in 2007. I had been the official respondent to the paper and consulted with psychologists and psychiatrists who all found the results true. This occurred after major abuse scandals involving Orthodox Jews, including rabbis, had become public knowledge. The intellectual leadership of the modern Orthodox community could not accept that incidents of sexual abuse in the Orthodox community were widespread and reflected anything beyond an occasional bad apple. Denial of the problem in the Haredi world and in the broader community prevailed. Until more cases of abuse came to light, and blogs emerged that reported on them and on the cover-up that often followed, denial precluded any serious response.

Justifications for the Inaction

The leadership hesitated to act because in many instances the form of the abuse did not fit into the categories of crime or sin described in traditional rabbinic sources. Technical distinctions about whether an act was literally sexual relations or rape prevented the rabbinate from appreciating the serious ongoing damage to the victims even when there was no physical scar. One can legitimately question the role that an unwillingness to

recognize the problem played in focusing on these technical distinctions. There are different kinds of abuse—including an older authority figure seducing an adolescent girl or boy— where the impact of the offense can only be understood if one knows the psychological ramifications. The category of *oseh melekhet Hashem remiyah*, he does the service of the Lord deceitfully, applies to a rabbi or teacher who takes such advantage of students, but only if one understands the damage done.

Acknowledging the problem is a necessary first step in setting up procedures to reduce the threat of new abuse. Abuse can take place within a family, at a camp, youth program, school, synagogue, or any public location. Training counselors, youth movement leaders, teachers, and clergy is important. When abuse occurs in a religious community the rabbi is often the first person consulted. At present, few rabbis understand abuse and even know enough to recognize their limitations. Traditional rabbinic training did not include any courses in psychological counseling. In many states, clergy are mandated reporters but rabbis are not aware of it.

Establishing That Abuse Has Taken Place

The process of determining whether abuse has taken place is not simple. If a child has been abused within the family, the child may not feel safe to discuss what happened with anyone. If teachers are trained to look for changes in behavior in a child that are indicators of possible abuse, the question becomes what the teacher should do with the information. If the teacher contacts a child protection agency to investigate, the question of *mesira* is triggered since the agency is part of the secular government and it is not clear at this point whether there has been sexual abuse. Most Orthodox Jews see the child protection agencies as an extension of the police. Working with a child to clarify what has happened requires special training and skill. Going to a Jewish agency will not avoid government involvement; the professionals in the agency are mandated reporters who must inform the state agency.

When the child tells a parent of abuse by a teacher it is even more complicated since the parent correctly suspects that the school will defend the teacher against the word of a child. Whether or not the story is true, the child needs to talk with a mental health professional. That therapist is likely to inform the authorities if the child's story is credible. At present, many parents are afraid to do anything that may bring the accusations public for fear of the reaction within the community.

If there are strong indications of abuse the likelihood that this child is not the sole victim must be investigated. This can't be done privately.

TRADITION

Inevitably some information will become public. Without a fundamental change in the attitude of the community, the reaction will be to blame the child and the parents for besmirching an individual without proof and sully the reputation of the school, camp, youth group, or synagogue. Any institution over years may have an employee who is an abuser; that is not a blemish on the institution. How it responds to the allegation is the real issue. If the response is to protect the reputation of the institution, it leads to a cover-up that exacerbates the initial problem.

When the victim who comes forward is an adolescent, the dynamic is different. Whether the abuser was a relative, a camp counselor, or a teacher—the victim can tell a coherent story. The question again is to whom. High schools have guidance counselors who should know what to do next. Youth movements and summer camps should have clear procedures for registering a complaint. There is a serious possibility that an adult who abuses in one of these settings is a chronic offender.

When abuse has occurred, one can deal with the abuser within the community or go to the secular authorities. Both approaches have adherents and in different ways both have not been successful. The victim needs therapy, which creates the complication that the therapist is a mandated reporter.

Failure of Internal Mechanisms

Attempts to respond internally have failed badly because there is no proper mechanism. Even when special *batei din* have been set up, the tools for a proper investigation do not exist. Even when the *beit din* finds the abuser guilty, it lacks the ability to punish him and to insure that he is not in position to be a threat to others. The Ran and the Rashba both permit going outside the halakhic process, acknowledging that the criteria needed to find a person guilty according to halakha are too stringent to be effective in controlling crime in society. Today religious courts have far less authority to punish than in the time of the *rishonim*. There has been discussion of whether the abuser can be forced to pay for damages—including the cost of therapy— but this is hardly an adequate restraint on the abuser. Recognizing this reality, some suggest limiting the role of *beit din* to establishing sufficient proof to permit the victim to go to the secular authorities. The assumption that rabbis have the training to make that assessment is unfounded.

Since not every case of abuse is criminal according to secular law, there remains a need for some internal process when the secular authorities can't help. In the religious Zionist community in Israel, Forum

Takana has been set up to work in these situations. Forum Takana was established to combine the authority of rabbis with the expertise of trained psychologists. Without rabbinic involvement the religious community in Israel would not accept the conclusions.

Going to the Police

Though denial has lessened, victims rarely find their plight high on the community's agenda. If they report the abuse they are condemned for blackening the image of Orthodoxy. When the abuse has occurred within an institution, preserving the institution and people's jobs are perceived to be the primary concern. The victim becomes the one who is threatening the community, while the abuser is protected. In cases of chronic abusers who work in schools or youth movements which give them access, there are usually tens if not hundreds of victims. Concerned about the financial implications of admitting any level of responsibility, the organizations that employed the abuser don't want to know about the numbers or extent of abuse. In those situations, the identity of the majority of victims is not revealed. They continue to suffer in silence, often estranged from Orthodoxy.

When abuse has been reported to the authorities, the case cannot progress unless the victim agrees to testify. Invariably pressure is placed on the victim and his or her family not to testify. Since it normally takes at least a year from the initial complaint until the trial, many victims withdraw their testimony. This will change only if the attitude of the community changes. Often the district attorney won't bother to pursue the case, fearful that by the time of the trial there will be no witnesses. At best, a plea bargain will be accepted, reducing the charges to a minimum; the abuser will then claim that he accepted the plea bargain because the juries are prejudiced against Orthodox Jews.

Many Halakhic arguments are used against a victim or a parent or therapist going to the secular authorities to report abuse, but the most effective is the prohibition of *mesira*. *Mesira* is a taboo with implications of being a traitor to the Jewish people. This is why, although it does not apply in cases of sexual abuse, it continues to leave a stain on the person who reports. The criterion of Rambam (Hilkhos *Hovel u-Mazzik* 8:11) that the accused being a threat to many permits reporting to secular authorities, is clearly met. Abusers do not stop on their own and often hurt hundreds of victims. Even as they age they continue to abuse. Therapy for abusers, except for minors who are caught early, has little proven record of success. Internal procedures have failed. Even the introduction of

TRADITION

special *batei din* with selected and trained judges who worked with therapists hasn't improved the situation. In a case last year such a rabbinic court, which ruled against an abuser, had its ruling become irrelevant when a second *beit din* in Israel became involved.

The halakhic literature dealing with the question of whether one should report abuse overwhelmingly approves of going to the secular authorities. However, the Israeli posekim who discuss it require getting approval from a *beit din* or at least a known rabbi first. Unfortunately, the assumption that a rabbi is qualified to evaluate an accusation of abuse and to determine its credibility is rarely justified. Halakha relies on experts in many areas; there are psychologists and psychiatrists specifically trained in this area who do have expertise. The victim knows that he or she was abused; it is hard to understand why they need to get approval.

One concern expressed about going to the authorities is that courts will give the abuser an excessive punishment. Since prison is not a punishment listed in normative halakha, that argument would effectively preclude ever going to the secular court system. The principle of *makkiv ve-onshin she-lo min ha-din* is one response given to that concern. Since we give permission to go to the police for other serious crimes where the punishment will also be prison it is unclear why this argument is introduced specifically in cases of abuse.

Threats against those who are willing to testify in court fall under the secular category of intimidating witnesses. Without cooperation from the community this rarely is enforced and the ability for the prosecution to succeed is severely reduced. Again, communal attitude to the abuser and the victims and the position of rabbinic leadership will determine whether witnesses will continue to be intimidated.

Responses to Actual Cases of Abuse

Examining specific major cases of abuse within the community will clarify what has been described above. In the 1970s, M came to New York proclaiming himself both a rabbi and a psychologist with a PhD. His credentials were apparently never questioned, though it was later discovered that he was neither. He served as a consultant for a prominent social agency in the Orthodox community in Brooklyn and also received referrals from a yeshiva high school in Brooklyn. The agency has denied that it ever employed him although former employees told me that cases were regularly sent to him. He has been accused of tens of cases of abuse. M was also accused of abusing children, both Jewish and non-Jewish, on the block where he lived. The non-Jews went to the police but when the

police came to arrest him, he had been warned and fled to Israel. I saw signs near a synagogue in the Sha'arei Hessed neighborhood in Jerusalem warning about M. For various reasons there was a significant delay before a request was made to extradite him to the United States. Meanwhile he became a member of a large and politically powerful Hassidic group in Israel. He fought the request for extradition to the Israeli Supreme court and is still living freely in Jerusalem.

In the 1980s Rabbi S started a yeshiva in Israel for yeshiva high school graduates from America who were turned off to some degree. He was charismatic and cool and his yeshiva became a major success. A number of his students, when they returned to the States, met with therapists and reported abuse. At the time, the accepted rules of confidentiality prevented the therapists from reporting the abuse. This has changed. Since the students were reluctant to move on to different yeshivot, a higher level program was instituted nearby. The rebbe hired for the new program heard horror stories of abuse and cultic behavior. He returned to America and reported to his rosh yeshiva. After various consultations, Rav Shach, the leading authority in Israel, ruled that S had to leave the yeshiva and took personal responsibility that he would not return to Jewish education. Since R. Shach passed away, leaving behind no documentation on the case, S managed to function in a related area and later attempted to return to direct access to teenage students. During the investigation about the accusations, it emerged that S had gone to Israel from America because of earlier accusations. Many of the students spent years in therapy and some disappeared from the Orthodox community completely. S, having never been arrested, is also living in Jerusalem.

More recently, there were accusations that M, a charismatic head of a group of seminaries for Americans, had sexually abused a number of his students and that complaints to staff members had been ignored. This case was taken to a special Beit Din in Chicago that heard a partial confession and ruled that he was guilty of abuse. Subsequently a different Beit Din in Israel became involved which ruled that no member of the staff was guilty of neglect and all could continue in their roles in the seminaries. While M sold the seminaries and is not directly involved, the consensus in Jerusalem is that he at worst was guilty of a minor indiscretion and nothing prevents him from teaching in the future.

There has been a reluctance of victims and their families to sue the abusers or the institutions that covered up the abuse, despite the impact that such suits had on revealing the scandal in the Catholic Church. In one case, when a group of former students sued Yeshiva University for the actions of their high school principal, the court dismissed the suit because

TRADITION

of a strict statute of limitation for bringing such lawsuits. Recently it was revealed that Yeshiva Torah Temima had settled two lawsuits that were within the statute for a combined sum of \$2,350,000 in order to protect K, who had been accused of abusing children for over a quarter of a century. As is usual in these settlements, the yeshiva did not admit guilt and the accusers signed a non-disclosure agreement. The story became public knowledge only because Torah Temima defaulted on a large portion of the payments. No Orthodox institution has commented on this development. I suspect that this case will only increase opposition to attempts to amend the present guidelines of the statute of limitations on civil lawsuits.

Causing Hillul Hashem

Sexual abuse is recognized as a terrible crime and the implication that the Orthodox rabbinate is involved in “sweeping it under the rug” reflects badly on the rabbinate. This has introduced the argument that those who criticize the leadership for inaction are guilty of speaking lashon hara and creating a hillul Hashem. This effectively shifts responsibility to the advocates for change and those who care about the victims. The hillul Hashem argument is particularly strange because it relies on the hope that the initial acts of abuse will be successfully covered up and there will be no public hillul Hashem since people won’t know about it. This assumption in a world of social media is at best tenuous. The broader message that criminal behavior within the Orthodox community should be covered up to protect the community’s image reflects the notion that a community that confronts its problem is perceived as inferior to one that denies them. On the contrary, it is a sign of the strength of Orthodoxy that it acknowledges human weakness and is committed to protect those who suffer and lack powerful supporters.

Theory and Practice

The Rabbinical Council of America has passed a number of resolutions on abuse that supported going to the police, but it is not clear how much impact they have had on real situations. Apparently there is a barrier between a theoretical position and applying it to an actual person that one knows. When the abuser is a charismatic, manipulative, and controlling figure there are warning signs, but in general abusers look like ordinary people and are not distinguishable in any way.

Even if there will be a fundamental shift and suspected abusers will be reported to the police, the community’s loyalties will have to change; we

must provide support for the victims and create a climate where victims are able to come forward. Rabbis can play a major role in setting the tone through moral leadership in their communities. Presently, if the accused is a member of a rabbi's congregation, the rabbi sometimes writes a letter of support, not realizing that the letter asking for leniency sends a negative message to the victims of that abuser.

A particularly difficult category to deal with is abuse within a family. Conditions that increase the risk for abuse by an older sibling unfortunately exist in parts of the Haredi world. The concern for not mentioning anything about sex, coupled with large families in small apartments has led to older brothers experimenting with their younger sisters with neither of them aware of what it fully means. Only years later do the victims begin to understand that they have been violated and they lack the language to ask for help. In general, abuse within the family strains relationships with parents and siblings pressured to take a side. Family therapy is needed for all the relatives in addition to that provided for the abuser and victim. Experts who are not rabbis can be helpful, although a rabbi may be asked for guidance when the conflicts come to a head before a family celebration.

There is a concern about false accusations. The statistics indicate that they are rare and usually reflect specific conditions that lead to suspicion. In any event the police are trained and rabbis aren't; the police don't bring people to trial unless they are certain that they have enough evidence to get a conviction. There are concerns about false accusations for other criminal behavior and yet this is not a deterrent to reporting other crimes. Children may not be able to describe events clearly but they are less likely to lie than adults.

In some states there are strict statutes of limitations which prevent criminal charges or civil suits for childhood abuse when the victim reaches a certain age. In New York the age is 23. This effectively eliminates criminal charges in many cases because youngsters are afraid of their abusers and it often takes years before they are ready to face the offender at a trial. In general, the organized Orthodox community has not supported changes in the law, although the concept of a statute of limitations is a secular one and does not exist in halakha. Agudas Yisroel has joined the Catholic Church in fighting any change. The message sent is that the primary concern is to protect the financial interests of institutions by preventing lawsuits, together with a willingness to let abusers escape prosecution on technical grounds. This sends a powerfully disturbing message to victims and their supporters.

In many circumstances going to the police is not an option. Our standards of acceptable behavior are different from those in criminal law. We should expect a higher moral level from rabbis and teachers. In a teshuva

TRADITION

written over one hundred and fifty years ago R. Yosef Shaul Nathanson responded to a case of a teacher accused of abusing boys that there is no automatic right to teach children (*Shoel u-Meishiv* 1:1:185). The welfare of the youngsters is what matters.

We can establish guidelines for schools, youth movements and synagogues. Summer camps need to train their staffs and establish rules for acceptable interactions with campers. There are governmental regulations and Halakhic prohibitions of *yibud* that work as preventive measures. While rabbis don't have the training of police officers and child protection employees, they can set up tribunals that rely on trained professionals to conduct investigations and therapists to guide them in evaluations. All of this requires financial resources which will be available only when the Orthodox community recognizes the depth of the crisis and changes its priorities.

Professionals who work with troubled youth from the Orthodox community who have dropped out and are living in the streets consistently report that a high percentage have been abused. Victims of abuse are at a high risk for suicide, and for drug, alcohol and other addictions. Many struggle with creating a normal family life. They are seen as damaged goods and are shunned. Yet we as a community are partially responsible for the damage they have suffered. When some have the courage to fight back and to confront their abuser, instead of being seen as heroes they are considered troublemakers. Our community needs to become educated, to change and to mature. No matter how much we want to believe that people who are on the surface observant Jews, who may even be Talmudic scholars, couldn't possibly be guilty of sexual abuse, neither religious dogma nor wishful thinking will determine reality. We have the same problem as the rest of society.

The world is aware of the risks the Catholic Church took during decades of ignoring abuse by priests and sending them back to the ministry. In the Catholic Church, where there is a hierarchy, it is clear where to place the blame. In the Orthodox Jewish world the blame is much broader. No archbishop assigns a priest to a church; the congregation elects the rabbi. A principal hires the teachers. Lay boards hire principals, youth directors, camp directors. When an abuser is passed on from school to school or from synagogue to synagogue, there are many people who might be responsible for not checking or for withholding information.

At a conference in Israel about abuse which took place shortly after a scandal involving the head of a seminary in Jerusalem, a session was held about potential risks during the gap-year programs attended by most yeshiva high school graduates. The head of a prominent seminary described

the programs that were introduced to protect the students in his school. He was asked how many potential parents had questioned him about how their daughters would be protected from abuse during the year in his seminary. His answer was none. There will be little motivation for institutions to make changes when the parents don't seem to care. We need a change in attitude about the seriousness of the danger from abuse. It must come from the rabbinate but equally from the laity.