

Rabbi Mark Dratch is Executive Vice President of the Rabbinical Council of America

## WHAT TO DO WITH ABUSIVE RABBIS: HALAKHIC CONSIDERATIONS

While the vast majority of rabbis, cantors, and teachers lead model religious and ethical lives that command respect and are worthy of emulation, there are some who are guilty of a variety of wrongdoings. There are some who betray their callings, their communities, and their commitments by treating their congregants and students in improper and even abusive ways.

What is the status of such failed leaders? Should they be allowed to continue to function in their sanctuaries and classrooms? If removed from their positions, can they ever be reinstated and function in similar capacities again? Are they still rabbis, or cantors, or teachers? While this article will focus specifically on rabbis, one may extrapolate from this analysis to other positions of spiritual, educational, and communal leadership.

This discussion, however discomfoting and repugnant it may be, is vital for protecting the integrity of the Jewish community. And despite the exhortation that one who insults a Torah scholar is considered to be an *‘epikorus* (heretic) and is guilty of *megaleh panim ba-Torah she-lo ke-halakha* (undermining the Torah),<sup>1</sup> in situations of *hillul Hashem* (desecration of God’s Name) we are to defer to no one, not even a scholar.<sup>2</sup> In truth, holding the few unsuitable individuals accountable for their inappropriate actions does not harm the rabbinate at all; it actually enhances its dignity and furthers the admiration and respect that the community holds for its leaders and teachers of Torah.

### RABBINIC INTEGRITY

Now, it goes without saying that no one is perfect. Every human being makes mistakes, suffers failures, and behaves improperly: “For there is not

<sup>1</sup> *Sanhedrin* 99b.

<sup>2</sup> *Berakhot* 19b.

## TRADITION

a righteous person upon earth, that does good, and does not sin” (Ecc. 7:20). And those in positions of leadership and power face even greater challenges than do the masses. They are fallible. At times, they are unable to fulfill properly the demands of their positions or to resolve appropriately the tensions and conflicting demands of their constituents. They are subject to temptations like every other human being, and sometimes, like others, they succumb. At times, they are unable to withstand the enticements and trappings of their offices. The Torah itself hints to us that our leaders will certainly fail: “*When* the leader sins” (Lev. 4:22) it says, not “*if*.”<sup>3</sup> Nevertheless, imperfection and error do not automatically disqualify a person from serving in religious leadership—otherwise, we would have no leaders.<sup>4</sup>

All the same, religious leadership demands a high level of integrity. Religious leaders are moral and spiritual exemplars, representatives of God and His Torah to the people they are charged to teach, inspire, counsel, and lead. The behavior of any religiously observant person—but especially that of a spiritual leader—is especially sensitive to being a *kiddush Hashem* (a sanctification of God’s Name) as well as its converse, a *hillul Hashem* (a desecration of God’s Name). Their successes and their failings can and do reflect on the One they represent, and impact the religious behaviors and beliefs of their adherents and students, both positively and negatively. When a leader is guilty of *hillul Hashem*, he betrays God and fosters disillusionment, and even cynicism, in his people. It is for this reason that the Talmud reminds us that when a learned, religiously observant person is honest and pleasant that people are impressed with him and the Torah he represents. Conversely, when such a person is dishonest or discourteous people blame the Torah that he claims to represent.<sup>5</sup>

What kinds of activities constitute *hillul Hashem*? Various rabbinic sources enumerate: failure to pay bills on time; giving the appearance that one is lax in his studies or observance;<sup>6</sup> embarrassing one’s colleagues

<sup>3</sup> See Rashi to *Horayot* 10a, s.v. *shani*.

<sup>4</sup> The Talmud, *Yoma* 22b, dictates appointing as leader only those who “carry a basket of reptiles on their backs,” i.e., those with proverbial skeletons in their closets which serve as preventative to excessive self satisfaction and arrogance.

<sup>5</sup> *Yoma* 86a.

<sup>6</sup> *Yoma* 86a:

What constitutes profanation of the Name? Rav said: If, e.g., I take meat for the butcher and do not pay him at once. Abaye said: That we have learned [to regard as profanation] only in a place wherein one does not go out to collect payment, but in a place where one does not go out to collect, there is no harm in it [not paying at once]. Ravina said: And Mata Mehasia is a place where one

due to the nature of the rumors that are spread about oneself,<sup>7</sup> or embarrassing them by the less-than-dignified activities in which one engages;<sup>8</sup> engaging in permissible activity which others assume is prohibited;<sup>9</sup> being an unsociable, unpleasant or angry individual; degrading the honor of Torah;<sup>10</sup> and being unkempt.<sup>11</sup> In each of these cases, the conduct of God's representatives causes them and their God to be seen in a less than noble and honorable light.

However, *hillul Hashem* is not merely defined by objective acts; it is dependent upon the caliber of the individual involved. An *adam hashuv*, an important, well-known, and well-respected person, and a *talmid hakham*, a pious, learned scholar, are expected by others to live according to strict moral standards—therefore, the greater the desecration when he fails to live up to these expectations.<sup>12</sup> His failures reflect positively not only upon his personal reputation, but upon the Torah that he claims to uphold and upon the God he represents.<sup>13</sup> Thus, as Abraham set out to the Promised Land, he was troubled lest he cause a *hillul Hashem* as others might accuse him of abandoning his elderly father.<sup>14</sup>

What traits must a rabbi possess? Because one of his primary functions is to serve as a judge in matters of Jewish law, the discussions of the

---

goes out collecting payments due. Whenever Abaye bought meat from two partners, he paid money to each of them, afterwards bringing them, together and squaring accounts with both. R. Yohanan said: In my case [it is a profanation if] I walk four cubits without [uttering words of] Torah or [wearing] *tefillin*.

<sup>7</sup> *Yoma* 86a.

<sup>8</sup> Rosh to *Moed Katan*, ch. 3, no. 11.

<sup>9</sup> *Yoma* 86a.

<sup>10</sup> *Pesahim* 49a:

Our Rabbis taught: Every scholar who feasts much in every place eventually destroys his home, widows his wife, orphans his young, forgets his learning, and becomes involved in many quarrels; his words are unheeded, and he desecrates the Name of Heaven and the name of his teacher and the name of his father, and he causes an evil name for himself, his children, and his childrens' children until the end of time.

<sup>11</sup> *Shabbat* 114a; *Megilla* 28a.

<sup>12</sup> See also Rambam, *Hil. Yesodei ha-Torah* 5:11. Note that Rambam records these laws here only with regard to a *talmid hakham* or *adam hashuv*.

<sup>13</sup> Rashi, *Shabbat* 33a, s.v. *hillul ha-Shem*, suggests that the *hillul ha-Shem* results when others learn from the activities of the *adam hashuv* and come to dishonor the Torah or, as he suggests in *Kiddushin* 40a, s.v. *aveirah she-osah peirot*, when others imitate his sinful behavior. Further, the *hillul ha-Shem* occurs when the ostensibly righteous person suffers punishment for his transgression and others come to question the value of his previous merits. See Rashi to *Yoma* 86a, s.v., *be-emor*; *Yoma* 86b, s.v., *mefarsemin*; and *Yoma* 87a s.v., *yomeru*.

<sup>14</sup> *Shemot Rabba*, no. 39.

## TRADITION

qualifications of those eligible to adjudicate in rabbinic courts can serve as a framework for the credentials of those suitable for the rabbinate.<sup>15</sup> Rambam lists seven qualifications: wisdom, humility, reverence, disdain of monetary gain, love of truth, love of humanity, and a good reputation.<sup>16</sup> While Rambam allows that not all of these traits will be found in every candidate, they form a framework in which judges and rabbis can be selected and evaluated.<sup>17</sup>

<sup>15</sup> Concerning the qualifications of a Prayer Leader, the Talmud, *Ta'anit* 16a, records:

One having a large family and has no means of support, and who draws his subsistence from [the produce of] the field, and whose house is empty, whose youth was unblemished, who is meek and is acceptable to the people; who is skilled in chanting, who has a pleasant voice, and possesses a thorough knowledge of the Torah, the Prophets and the Hagiography, of the Midrash, Halakhot, and Aggadot and of all the Benedictions.

<sup>16</sup> *Hil. Sanhedrin* 2:7:

“[Choose] wise and understanding men, [known among your tribes, and I will make them rulers over you]” (Deut. 1:13) refers to those with wisdom; “known to the tribes” refers to those who are well regarded by others. How is it that they are well regarded? In that they are magnanimous, humble, and friendly, and their speech and dealings are pleasant. When it also says, “[And you shall choose out of all the people] men of valor, [such as fear God, men of truth, hating unjust gain]” (Ex. 18:21), this refers to those who excel in [the observance of] the commandments, who set high personal standards [of behavior] and who control their evil inclinations, such that there is nothing about them that is objectionable, that they do not have bad reputations or unsavory histories. Included in [the requirement of] “men of valor” are those who have the courage to save the oppressed from the hands of the oppressor, as it says, “And Moses arose and saved them” (Ex. 2:17). In addition, just as Moses was humble, so every judge must be humble; “God fearing,” as it implies; “hating unjust gain,” hastening after riches, even their own, and they do not run to amass wealth...; “men of truth” that they are personally motivated to pursue justice, love truth and hate violence, and flee from all kinds of immorality.

See *Teshuvot Emek Halakha* I, no. 70.

<sup>17</sup> *Sanhedrin* 7b:

Resh Lakish said: He who appoints an incompetent judge over the community is as though he had planted an *Asherah* (a tree worshipped as idolatry) in Israel, for it is written, “Judges and officers shalt thou appoint for yourself” (Deut. 16:18), and after it is written, “You shall not plant for yourself an *Asherah* of any kind of tree” (Deut. 16:19). R. Ashi said: And if such an appointment be made in a place where scholars are to be found, it is as though the *Asherah* were planted beside the altar, for the verse concludes with the words, “beside the altar of the Lord your God.”

See *Teshuvot ha-Maharik* no. 117.

## RABBINIC ACCOUNTABILITY

There are those who argue that rabbinic infractions are to be dealt with quietly and privately. This discretion is not meant to serve as a “cover up,” but is, rather, to protect the dignity of the rabbinate and the Torah it represents. The Talmud, *Menahot* 99b, states:

Resh Lakish also said, a scholar who committed a sin must not be reproached publicly, for it is written, “Therefore shalt thou stumble in the day, and the prophet also shall stumble with thee in the night” (Hosea 4:5), that is to say, keep it dark, like night.

The Talmud further elaborates in *Hagiga* 15b,

Rava said, what is the meaning of the verse, “I went down to the garden of nuts, to look at the green plants of the valley, etc.” (Song of Songs 6:11)? Why are the scholars compared to the nut? To tell you that just as a nut, even if it is spoiled with mud and filth, its contents are not soiled, so a scholar, although he may have sinned, is his Torah not soiled.<sup>18</sup>

None of these sources suggest that a rabbi is unaccountable for his actions. Rather, they maintain that the rabbi must repent and whatever consequences or punishment he faces must be private.

However, others disagree, and their opinion is the accepted legal conclusion. Rambam, responding to a question posed concerning a wayward ritual slaughterer:

It is already well known by the non-Jews that we would only appoint to perform ritual slaughter, or as our judges and prayer leaders, those that are the most refined among us. The non-Jews respect this and are jealous of us for this. It is forbidden for anyone who believes in the Torah of Moses and who cares for the honor of his Creator, to permit such a wayward person who has not repented completely to slaughter, because this causes the desecration of God’s Name.<sup>19</sup>

*Shulhan Arukh*, *Yoreh De’ah* 334:42, while first siding with the former, protective approach, rules that when there are significant suspicions

<sup>18</sup> See *Hilkhot Talmud Torah* 7:1 and Shakh, *Yoreh De’ah* 257, no. 4. See the trepidation expressed by R. Aharon Walkin, *Teshuvot Zekan Aharon*, II. No. 30 as he proscribes removing a public official from office.

<sup>19</sup> *Teshuvot* ha-Rambam, no. 173. Rema, *Yoreh De’ah* 257:2 also allows for the removal from office of an appointed public official.

## TRADITION

that a rabbi is involved in heresy or that he is engaged in licentious behavior, or if he brings discredit to the rabbinate or the community by desecrating God's Name, he should be held accountable publicly.<sup>20</sup> In fact, "wherever there is desecration of God's Name, honor is not extended, even to a rabbi."<sup>21</sup>

### RABBIS AS ANGELS

Perhaps the most relevant source for addressing our issue concerns the Talmudic response to a rabbi about whom persistent rumors of sexual impropriety were spread. The Talmud describes R. Yehudah's dilemma whether to excommunicate a rabbi "whose reputation was objectionable." "To excommunicate him [we cannot], as the rabbis have need of him [as a capable teacher]; not to excommunicate him [we cannot] as the name of Heaven is being profaned." Rabbah bar bar Hanna instructed him to excommunicate this rabbi. Citing the verse "For the priest's lips should keep knowledge and they should seek Torah at his mouth; for he is an angel of the Lord of Hosts" he explains: "If the rabbi is like an angel of the Lord of Hosts, they should seek the Torah from him; but if [he is] not [like an angel], they should not seek the Torah from him."<sup>22</sup>

R. Yohanan asserts that a rabbi must be more than just an expert in Jewish law and practice. He must be, first and foremost, a moral exemplar. After all, the study of Torah is much more than an intellectual exercise and a rabbi is much more than a professor of Talmud or of legal codes. While one does not necessarily expect moral greatness from a professor of

<sup>20</sup> *Mo'ed Katan* 17a:

Said R. Huna, At [one of the Synods at] Usha they made a regulation that if the Av Bet Din committed an offense that he was not to be [formally] excommunicated, but someone was to tell him, "Save your dignity and remain at home" (II Kings 14:10). Should he again offend they excommunicate him, because [otherwise there would be] a profanation of the Name [of God]. And this is at variance with Resh Lakish; for Resh Lakish said: If a scholar-disciple has committed an offensive deed they do not excommunicate him publicly, because it is said: "Therefore shalt thou stumble in the day and the prophet also shall stumble with thee in the night" (Hosea 4:5), [that is to say], Keep it dark like night (do it as quietly as possible for his sake and that of the community.).

While Rambam, *Hil Talmud Torah* 7:1, seems to rule according to Resh Lakish, see *Hil. Talmud Torah* 6:14, in which he rules that one must respect the excommunication of a sage who was banned due to illicit rumors. This is also the ruling in *Yoreh De'ah* 334:42.

<sup>21</sup> *Berakhot* 19b.

<sup>22</sup> *Mo'ed Katan* 17a.

chemistry or literature, one absolutely requires it of a religious teacher. How can a rabbi preach about repentance or ethics, if he himself is unrepentant or unethical? How can he exhort others to be empathetic and charitable, if he himself is cruel or selfish? How can he represent a kind, compassionate and loving God if he is abusive? How can he bring others to a love of God, when his actions undermine his values and teachings and serve to frustrate and alienate those who seek his guidance? This moral standard is a *sine qua non*. Even if the rabbi's intellectual ability, pedagogic skills, or leadership are required by the community, the rabbi is, nevertheless, unfit to serve.<sup>23</sup>

Despite this ruling that one may only learn from and be led by upstanding rabbinic figures, the great Mishnaic Sage R. Meir continued to learn Torah from his teacher, Elisha ben Avuyah, long after the latter became an apostate and was known by the appellation "*Aber*" (the other). How could R. Meir have done so, after all, *Aber* was no angel of the Lord? The Talmud suggests that "R. Meir found a pomegranate; he ate [the fruit] within it, and he threw away the peel!"<sup>24</sup> It explains that R. Meir was a *gadol*, an astute and discerning individual who could distinguish between the teacher and his teachings. For him, the integrity of Torah remained intact and he had no fear of any damaging influence. However, a *katan*, one who is unable to make such distinctions, may not learn from such a teacher.

Apparently, R. Meir believed that the wisdom of Torah can be transmitted through individuals who, in their personal comportment, do not represent the true nature of Torah. This is so because the integrity of the Torah and its teachings are such that they cannot be contaminated by anyone, and an astute student can distinguish between the messenger and the message. One opinion cited by Tosafot suggests that even the rabbi who was excommunicated because of his "objectionable reputation" even though he was needed by the community, was only barred because the people could not discriminate between him and his teachings. If, however, they could have made this distinction, the rogue rabbi would be an acceptable source of teaching.<sup>25</sup>

However, there is a second opinion cited by Tosafot which maintains that even if one is a *gadol* who can distinguish between the messenger and

<sup>23</sup> Rabbi Shlomo Kore'ah observes that the Talmud does not instruct a person whose teacher is not like an angel to simply find another rabbi; it rules that he is not to learn from this specific rabbi. This teaches us, he says, that even if there is no one else from whom the student can learn he must still refrain from learning from this unacceptable teacher. <http://www.temani.net/http/sprot-timan/10.htm>.

<sup>24</sup> *Hagiga* 15b. Another version: "R. Meir ate the date and threw the kernel away."

<sup>25</sup> *Tosafot, Hagiga* 15b, s.v., *ha be-gadol ha be-katan*. See *Me'iri to Hagiga* 15b.

the message, if the rabbi is guilty of a violation so egregious that he deserves to be excommunicated, no amount of understanding and discernment by any disciple can maintain that rabbi in his position.<sup>26</sup> And the formulations of Rambam and *Shulhan Arukh* agree to this unconditional removal of a blameworthy rabbi from his position without any mention of the discriminating capabilities of his followers.<sup>27</sup> This indicates that they did not accept the Talmud's distinction between *gadol* and *katan*, suggesting that that this distinction may have been R. Meir's justification for his own personal behavior, but that this distinction is not authoritative and is not accepted as the normative law.<sup>28</sup>

The ruling, "If the rabbi is like an angel of the Lord of Hosts they should seek Torah from him," raises significant questions when considering significant factors that contribute to clergy abuse, i.e., the deification of leadership and the absolute authority ascribed to them. Such opinions of often charismatic clergy make victims vulnerable and can contribute to a rabbi's false sense of self. Two important considerations: First, Rabbah bar bar Hanna does not say that a rabbi is an angel of the Lord, he says that the rabbi must be *domeh*—like—an angel, but not an angel; both he and his followers must remember that. Second, the word *malakh*, in addition to being an angel, also means "messenger." Both the rabbi and his followers must remember that the rabbi is only a messenger of God.

In 5719 (1959), R. Moshe Feinstein was asked to rule on the permissibility of playing the music of a certain song writer who was rumored to engage in disreputable behavior.<sup>29</sup> R. Feinstein distinguished between this composer's early compositions and his later ones. Any music written in his early years when this individual comported himself appropriately remained permissible; at that time, he behaved properly and his later activities can not retroactively taint his prior achievements. One of the proofs that R. Feinstein brought is from the case of a Torah scroll that was written by a heretic—Jewish law requires that such a scroll be destroyed so as not to

<sup>26</sup> *Tosafot, Hagiga* 15b, s.v., *ha be-gadol ha be-katan*.

<sup>27</sup> *Hil. Talmud Torah* 4:1; *Yoreh De'ah* 246:7.

<sup>28</sup> *Lehem Mishneh* to *Hil. Talmud Torah* 4:1, s.v. *ve-khen ha-Rav she-eino holekh be-derekh tova*; *Shakh* to *Yoreh De'ah* 246, no. 8. *Teshuvot Yabi'a Omer*, VII, *Yoreh De'ah*, no. 19; *Teshuvot Yosef Omets*, no. 33 suggests that R. Meir's distinction does maintain—in theory. However, for fear that even a *katan* who is unable to discriminate may believe he is a *gadol* who can, a situation that will lead to improper influence, no one may learn from such a rabbi.

<sup>29</sup> *Teshuvot Iggerot Moshe, Even Ha-Ezer*, I, no. 96. At a later date, a comprehensive article outing allegations against Shlomo Carlebach was published, see Sarah Blustain, "Rabbi Shlomo Carlebach's Shadow Side," *Lillith*, Spring 1988 available at <http://lilith.org/articles/rabbi-shlomo-carlebachs-shadow-side/>.

perpetuate his name, reputation or achievements.<sup>30</sup> However, the law also asserts that a scroll written while that person was a true believer remains valid, even if he later became an apostate.<sup>31</sup> Concerning subsequent musical compositions, R. Feinstein stated that even those songs that this person wrote after his “reputation became objectionable” are permissible because music, unlike Torah scrolls, have no intrinsic holiness. Furthermore, the questionable activities had nothing to do with undermining the fundamentals of Jewish belief; rather they were initially understood to do with casualness with regard to the intermingling of the sexes that were not in keeping with Orthodox norms. Such a lapse would not render a Torah Scroll he wrote invalid; it would certainly not disqualify his music. R. Feinstein wrote nothing about learning Torah from this individual. However, based on R. Feinstein’s discussion, one might distinguish between the teachings and insights of a heretic before and after his apostacy: the earlier Torah would remain kosher; the latter Torah would be banned.

That was 1959. Since then the allegations about this individual have become more serious and his music has been widely integrated into the prayer services of many congregations. His music, as well as his stories and teachings, have become a meaningful source of religious inspiration to generations of Jews and has perpetuated his legacy. Alleged victims of this man have expressed hurt and disillusionment over the community’s embrace of his music and his personality. What would R. Feinstein have said if he were responding to this question today?

R. Menasheh Klein and R. Moshe Stern agree with R. Feinstein’s conclusion, with one further restriction. Citing the ruling that it is prohibited to mention the name of an evil person, they prohibit listening to music written or recorded even before the composer’s misconduct if he identifies the music with him.<sup>32</sup>

## REVOKING ORDINATION

Can a rabbi’s *semikha* (ordination) be revoked? Contemporary rabbinic ordination is known as “*beter hora’ah*” (license to adjudicate) by which they are empowered to decide matters of Jewish law.<sup>33</sup> At times this authorization

<sup>30</sup> *Hil. Sefer Torah* 6:8.

<sup>31</sup> *Pit’hei Teshuva*, *Yoreh De’ah* 281, no. 2.

<sup>32</sup> *Teshuvot Mishneh Halakhot* 6:108; *Teshuvot Be’er Mosheh* 6:74.

<sup>33</sup> *Sanhedrin* 5a:

Now, what is the content of an authorization? When Rabbah b. Hana was about to go to Babylon, R. Hiyya said to Rabbi [Yehuda ha-Nasi], “My brother’s

## TRADITION

is limited either to specific areas of Jewish law<sup>34</sup> or to limited periods of time.<sup>35</sup> However, even if granted this license, an unqualified person is *ipso facto* not a rabbi, even if ordained. Rambam rules:

One who is not fit to [serve as a] judge [either] because he does not know [the law] or because he is not [personally] suitable, who was [nevertheless] granted license [to adjudicate matters of Jewish law] by the exilarch or who was erroneously appointed by the Bet Din, his authorization is invalid until he [becomes] qualified, [similar to one] one who sanctifies a defective animal [as a sacrifice to be brought on] the altar, which does not become sanctified.<sup>36</sup>

Rabbi Yehudah Aszod, (Hungary, 1794-1866), author of *Teshuvot Yehudah Ya'aleh*, instructed a disciple of his to revoke the ordination that the latter had granted someone who violated the trust of the rabbinate and, furthermore, to publicize the fact that he was doing so.<sup>37</sup> The Code of Jewish Law goes a step further and records that a scholar, who is rumored to be involved in heresy or immoral behavior, such that he causes a desecration of God's Name, is to be excommunicated.<sup>38</sup> Such a person certainly is no longer considered a rabbi.

R. Bernard Revel, first president of Yeshiva College, revoked a graduate's ordination:

When a Yeshiva graduate refused Revel's request to leave a position which had both mixed pews and a mixed choir, his ordination was revoked. Revel wrote to a graduate on September 19, 1933: "It grieves me to inform you that since you refuse to leave Temple...where the sacred laws of traditional Judaism are violated, I urgently request that you return the conditional document of ordination that you received from the Yeshiva. The basic purpose of the Yeshiva is to guard the sanctity of Jewish Law in this land. If you will not return the document of ordination, I will be obligated to publish newspaper announcements declaring the nullification of your ordination."

---

son is going to Babylon. [*Yoreh?*] May he, decide in matters of ritual law?" Rabbi answered: "[*Yoreh!*] He may." [R. Hiyya continued,] "[*Yadin?*] May he decide monetary cases?" "[*Yadin!*] He may." "[*Yatir bekhорот?*] May he declare first-born animals permissible [for slaughter]?" "[*Yatir!*] He may."

<sup>34</sup> *Hil. Sanbedrin* 4:8.

<sup>35</sup> *Hil. Sanbedrin* 4:9.

<sup>36</sup> *Hil. Sanbedrin* 4:15.

<sup>37</sup> *Teshuvot Yehudah Ya'aleh*, I, *Orah Hayyim*, no. 37.

<sup>38</sup> *Yoreh De'ah* 334:42.

The rabbi did not heed Rabbi Revel's request, and the Yeshiva publicly announced the cancellation of his ordination and proclaimed that "one can no longer rely on his answers to inquiries of Jewish Law."<sup>39</sup>

## REINSTATEMENT

Can a rabbi or teacher who has been removed from his position ever be reinstated? May one learn Torah from an individual who has engaged in illicit activities and has subsequently repented?

At first glance, the answer of seems straight forward: "One is not permitted to learn from a rabbi who does not follow the good path, even if he is a great sage and the entire nation depends on his [teaching], until he returns to the good."<sup>40</sup> This allowance is based on the premise that once a person has been punished or has repented, his credibility is restored.<sup>41</sup> At times, punishment alone is not sufficient; a person may have to prove that he has really turned over a new leaf. The Talmud elaborates upon the repentance required of those engaged in illicit activities that bring undeserved or illegal financial gain such as dice playing, usury, pigeon raising, and trading in the forbidden produce grown in the Sabbatical year. In each circumstance, the sinners must not only compensate any losses they may have caused others to suffer, but must conduct themselves in ways that are straight and honest and must bend over backwards to prove their integrity and transformation in those specific areas in which they sinned.<sup>42</sup> Consider the case of a butcher who deceives his customers by selling non-kosher meat as kosher, "he who is suspected of passing non-kosher meat [as kosher] cannot be rehabilitated unless he leaves for a place where he is unknown and finds an opportunity of returning a lost article of considerable value, or of condemning as non-kosher meat of

<sup>39</sup> Aaron Rakeffet-Rothkoff, *Bernard Revel--Builder of American Jewish Orthodoxy* (Nanuet: Feldheim, 1981), 165-166.

<sup>40</sup> *Hil. Talmud Torah* 4:1; *Yoreh De'ah* 246:8. As for determining effective repentance in instances of abuse, see my "Forgiving the Unforgivable? Jewish Insights into Repentance and Forgiveness." (2003), *Journal of Religion & Abuse*, 4: 4, 7-24.

<sup>41</sup> Mishna, *Makkot* 23a:

"[Forty lashes he may give him, and not exceed; lest, if he should exceed, and beat him above these with many stripes,] then your brother be dishonored before your eyes" (Deut. 25:30), which shows that on having received the lashes he is [once again considered] "your brother."

<sup>42</sup> *Sanhedrin* 25b.

considerable value, belonging to himself.”<sup>43</sup> Depending upon his misconduct, a “defrocked” rabbi may have to prove that he is no longer susceptible to the same illicit behavior. In some abusive behaviors, the rate of recidivism is high and experts maintain that it may be extremely difficult, if not impossible, to refrain from repeating the offense.<sup>44</sup> In such cases, reinstatement should never be an option. Furthermore, even “lesser” abuses may prevent a rabbi from continuing his communal service. Careful consideration must be given to the impact of the rabbi’s continued service on his victims, on other victims of abuse, and on the integrity of the entire community. Ignoring, minimizing, or justifying abuse damages the reputation of the entire religious community and reflects negatively on the values it espouses. Community leaders do not have the right or authority to ignore the sensitivities of victims. The requirements for an abusive rabbi’s continued service are steep: he needs to be successfully treated by mental health professionals, repent of his sin, see to the healing of his victims and achieve forgiveness from them, and gain the trust and confidence of the larger community, not just of his own congregation; these requirements effectively bar any abuser from continuing to serve. Being a community rabbi or teacher is not a right, it is a privilege which must be earned, deserved, and continually maintained.

However, with regard to reinstating a person to a rank of communal and religious leadership, Rambam notes a distinction between two different positions. It is from these rulings that we might extrapolate guiding principles for contemporary rabbis and teachers. Rambam writes:

A High Priest that sinned is lashed [in front of a court of] three like the rest of the people and then returns to his prominent [position]. But a *rosh yeshiva* (the Head of the Sanhedrin) that sinned is lashed and is not reinstated to his station. He is also not appointed as a regular member of the

<sup>43</sup> *Sanhedrin* 25a. See *Avoda Zarah* 17a: “Rabbi [Yehudah ha-Nasi] also said: Repentants are not only accepted but they are even called ‘Rabbi!’”

<sup>44</sup> “...the empirical evidence clearly demonstrates that different types of sex offenders have a different propensity to reoffend. This suggests that different recidivism-reduction policies and practices are needed for different types of sex offenders. Policies and practices that take into account the differential reoffending risks posed by different types of sex offenders are likely to be more effective and cost-beneficial than those that treat sex offenders as a largely homogenous group.” Roger Przybylski, “Chapter 5: Adult Sex Offender Recidivism,” Office of Sex Offender Management Assessment and Planning Initiative, Office of Justice Program at [https://www.smart.gov/SOMAPI/sec1/ch5\\_recidivism.html](https://www.smart.gov/SOMAPI/sec1/ch5_recidivism.html). Retrieved April 26, 2017. Other chapters include: Sex Offender Risk Assessment, Effectiveness of Treatment for Adult Sex Offenders, and Sex Offender Management Strategies.

Sanhedrin because [of the principle that one always] increases sanctity and does not diminish it.<sup>45</sup>

What is the difference between the offices of the High Priest and the *rosh yeshiva* such that one allows for a reinstatement and the other does not? The Jerusalem Talmud suggests that the High Priest would also not have been reinstated were it not for the uniqueness of the sanctity of a *kohen*: “‘Neither shall [a *kohen*] go out of the sanctuary nor profane the sanctuary of his God;] for the crown of the anointing oil of his God is upon him; I am the Lord’ (Lev. 21:12), just as I (God) [always retain] My sanctity, so Aaron (as well as every *kohen*) retains his sanctity.<sup>46</sup> Thus, because the *kohen* is the exception, the rule is that once any leader betrays his office he can never be restored to it. His original status was a function of his initial election or appointment which was revoked and he no longer has any claim to it; the status of a *kohen*, whose sanctity is conferred by divine decree, can never be rescinded.<sup>47</sup>

Why was the *rosh yeshiva* not reappointed? There are many explanations: fear that a leader, once punished, may take advantage of his reappointment to exact revenge against those who convicted him or punished him;<sup>48</sup> Jewish law does not sanction it, even if there is no fear of retribution;<sup>49</sup> concern that the masses may continue to belittle or disparage the leader;<sup>50</sup> the violation is public and constituted a *hillul Hashem*, such a person can no longer serve as a proper role model for the community.<sup>51</sup>

<sup>45</sup> *Hil. Sanhedrin* 17:8-9.

<sup>46</sup> Jerusalem Talmud, *Sanhedrin* 2:1.

<sup>47</sup> *Peirush ha-Mishnayot le-ha-Rambam, Horayot* 3:2. Based on this analysis, the Tel Aviv Rabbinic Court in *Piskei Din Rabanniyim*, VIII, 147, writes:

It is clear, therefore, that we must equate any contemporary position (specifically, in their case, an educator) with that of the *Nasi*, which is a form of community prominence, and not to that of the High Priest who has intrinsic sanctity.

See, however, *Dibberot Moshe, Gittin*, 355, no. 23, n. 56, who maintains that the position of High Priest is not *sui generis* and that a person should be restored to every position. He maintains that the Jerusalem Talmud cited above comes to assert that no matter what a High Priest never loses his sanctity.

<sup>48</sup> Jerusalem Talmud, *Sanhedrin* 2:1; Radbaz to *Hil. Sanhedrin* 17:9. Although the Talmud speaks specifically about the king having those who prosecuted him killed, *Teshuvot Maharsham*, II, no. 56 extends the concern to all types of retribution, including financial.

<sup>49</sup> *Kesef Mishnah, Hil. Sanhedrin* 17:8-9; *Teshuvot Hatam Sofer, Orah Hayyim*, no. 41 and *Hoshen Mishpat*, no. 22.

<sup>50</sup> *Kesef Mishna, Hil. Sanhedrin* 17:8-9.

<sup>51</sup> *Teshuvot ha-Radbaz*, VI, no. 2078.

## TRADITION

### SERVANTS OF GOD

R. Abraham Isaac Kook, the first Ashkenazic chief rabbi of British Mandatory Palestine, described himself—and, by extension, every rabbi—as an *eved le-avdei Hashem*, a servant of the servants of God. As such, the prime responsibility that a rabbi has is for the physical, emotional and spiritual wellbeing of the members of the Jewish community. At times, this mandate calls for protecting the reputation of the Jewish community at large and defending its leadership and institutions. At other times, however, it means taking serious stock of those very same leaders and institutions in order to make certain that they are upholding and furthering this mandate. If problems are uncovered, they must not be dismissed or hidden. In every case, the circumstances surrounding allegations and suspicions must be evaluated in light of the guidelines outlined above and determinations made as to whether public or private admonition is appropriate, whether or not the rabbi can remain in his position, and, subsequently, whether or not he should be restored to that position. When a rabbi has violated the appropriate boundaries that define the respectful and proper relationship between him and his congregants, considerations for the welfare of the victims, the well-being of the community and the integrity of Torah are priorities. In this way all members of the community—*avdei Hashem*, the servants of God, and *avdei le-avdei Hashem*, the servants of those servants—will fulfill the biblical admonition which calls on us to sanctify the Name of Heaven, “And [God] said to me, ‘You are my servant, O Israel, in whom I will be glorified’ (Isa. 49:3).”