



Shivim Panim

with

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NOTE FROM THE PUBLISHER: One of the hallmarks of SAPIR is its connection between theory and practice. We ask our authors not simply to make arguments but also to offer policy prescriptions. In *Shivim Panim* (referencing the 70 faces of the Torah), we ask two leading Jewish thinkers to apply Jewish wisdom to ethical dilemmas faced in Jewish communal life. The dilemmas are real, as are the people who pose them. We invite you to send your own queries to us at info@sapirjournal.org.

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I am a foundation leader. The chief executive of one of the organizations we support is the subject of a #MeToo-related whisper network (as distinguished from a full and public news story). The rumors could be true, but there is no real way to adjudicate it, and no actual evidence has been brought forward. What is our responsibility to investigate, and to respond to or push back on the allegations, as the case may be?



Rabbi Wolpe: Several important questions have to be addressed. How serious are the allegations? How credible are they—given the individual, his or her opportunities, the reliability of the accuser, the past work history of the accused? What sort of damage might befall the organizations involved if the allegations prove true and remain unaddressed? How feasible might the investigation itself prove to be? How disruptive? Above all, is there an ethical way to handle the situation that neither ignores the allegations and pain of the potential victim, nor reinforces the charges in a way that might besmirch the name of an innocent person?

An important variable is whether the individual is aware of the accusation, and whether he or she has responded. The *Shulchan Aruch* (Even HaEzer 2:4), following the Rambam, says that if someone accuses a family of illegitimacy and they do not respond, one should be wary of marrying into that family. In other words, not responding to insulting rumors about oneself might be taken as a confession of culpability. It also preserves the Rama's disagreement: He argues that sometimes there is wisdom in silence,

while at other times, silence is understood to be consent. Today, people are often concerned about speaking up because the legal questions are so complicated and difficult to untangle. They may even be getting legal or PR advice to stay silent.

According to Maimonides (Hilchot Deot 7:1), “A person who collects gossip about a colleague violates a prohibition as [Leviticus 19:16] states: ‘Do not go around gossiping among your people.’ ... [I]t is a severe sin.” And the anonymous book of Jewish ethical teachings *Orchot Tzadikim* (25:7) elaborates by prohibiting the assent to gossip: “If one who hears gossip endorses what he has heard, then he is just as guilty as the gossiper.” An investigation may be required to quell the insinuations, but there should also be a culture of not gleefully promoting rumors.

In an unforgiving age, it is important to decide as well, perhaps in advance, whether there is a redemptive process if the accusation proves true. Can the person apologize, go to therapy, be given another chance? These days we have a tendency to lead everyone, whether monster or merely maladroit, to the guillotine. As Jewish organizations, we should do better.

Rabba Epstein: Whisper networks are commonly understood to mean lists or social-media postings, often anonymous, created to warn others about individuals who are dangerous and harmful and should be avoided. These warnings can include a range of offenses from inappropriate speech to sexual harassment, unwanted sexual advances, sexual abuse, and even rape. How should Jewish organizations and their funders relate to these whispers when they surface?

First, we need to examine the reasons such lists exist. Whisper networks are a tool of those who have less power in a given situation and in society in general. They are an avenue for people to tell the truth about their experiences and to bring this truth to the attention of those who might otherwise not listen. They provide victims with a protective service, something society often

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does not offer them when they come forward. They push back against the strong taboo that still exists in many quarters around issues of sexual misconduct.

What does Jewish tradition have to teach us about rumors regarding inappropriate sexual behavior?

On the one hand, whispers can be corrosive and destroy lives and reputations. They contain anonymous accusations: uncorroborated, unsubstantiated, and likely uninvestigated. As Rabbi Wolpe notes, Maimonides teaches us that we need to be extremely careful when speaking negatively about individuals, even when the things said about them are true. How much more so when we are dealing with rumors!

But there are also Jewish texts stating that not only are we allowed to share these rumors, but that we actually have an *obligation* to do so, to protect more people from falling victim to dangerous individuals. (The Collegiate Moot Beit Din, supported in part by Maimonides Fund, produced an extensive source packet on this topic in 2019.)

There is a remarkable story in the Babylonian Talmud *Moed Katan* 17a of a brilliant young Torah scholar who had developed a bad reputation based on anonymous rumors about his sexual conduct. Rav Yehuda, the prominent sage of the time, finds himself

in a similar predicament to our questioner's: On the one hand, the accused is a great scholar who is very much needed by the community. On the other hand, what is at stake is nothing less than *Hillul HaShem*, the very desecration of God's name. Rav Yehuda humbly consults with another rabbi, who explains that we must hold religious leaders to the highest standards and that we cannot allow for any hint of scandal. And so, at great cost to the Beit Midrash and the community, Rav Yehuda excommunicated the young Torah scholar.

This story teaches us how seriously we must take rumors about sexually inappropriate behavior and the high standards we must set for our leaders, especially those who teach Torah. And yet, this story is also problematic, in that there is no mention of due process—Rav Yehuda moves straight to excommunication.

Funders and Jewish organizations should act like Rav Yehuda, seeing themselves as protectors of victims and—through protecting these victims—protectors of the Divine. And we should go further than Rav Yehuda did and also create due processes that protect the accused.

We must face taboos about sexual harassment and assault head-on.

We must establish appropriate protocols that ensure victims can come forward safely, and we should have designated staff people who have undergone the necessary training to handle these complaints.

We must take every rumor seriously and investigate it thoroughly and professionally—utilizing either in-house human resources or availing ourselves of the many organizations currently acting to make Jewish organizations safe. We will not always need to have a full-scale investigation, but we should seek professional counsel about what steps are necessary in a given situation.

Investigating all claims allows us to hold both truths—taking the pain and suffering of victims seriously and treating the subject of the whispers fairly. This is how we protect the Divine Image present within all of us.



How do we deal with pressure to cancel a speaker at an event or conference based on claims by a group of stakeholders that the speaker's ideas pose a threat and cause harm? In particular: My diverse synagogue has been asked to invite an activist from a Jewish LGBTQ+ organization to talk about the importance of "gender-affirming care" for children and teens who are experiencing gender dysphoria. We have also been asked to bring in a speaker to talk about whether the enormous recent increase in gender dysphoria, especially among adolescent girls, is at least in part a function of social contagion, and whether medical and surgical responses for children should be more heavily regulated. Both sides argue that the views of the speaker on the other side are causing literal harm to children and transgender people.



Rabbi Wolpe: Any speaker who promises first-order harm ("I exhort you to go out and hurt blond-haired people") should never be invited to speak. Short of that extreme, to the extent that is possible, I believe organizations should resist any attempt to legislate by polemical, political pitchforks.

When I was in eighth grade at Akiba Hebrew Academy (now Barrack Academy) in Philadelphia, my teacher brought in a Baptist preacher who said to us, in a kindly and sorrowful manner: "Boys and girls, you seem nice enough, but you are all going to hell." I imagine that today there would be calls for the heads of the teacher, the principal and—probably—the preacher. But this proved to be among the most important classes we had. It

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expanded our understanding and, not surprisingly, reinforced our sense of pride in our Jewish identity.

Are Jews incapable of hearing varied political opinions? Have thousands of years of braving our way through hostile societies left us at the mercy of an ill-judged sentence? The robust do not cower.

Granted, questions about gender, LGBT, and trans issues are particularly sensitive. But some framing: First, the Talmud speaks in many places about complications of gender, including those born with both male and female sexual characteristics, those identified as one gender at birth and later identified as another, those with an ambiguous biological gender, and so on. We cannot evade those sections because they might offend. Indeed, they present an opening for more frank conversations about the various ways of being human. Second, the Talmud does not shy away from difficult deliberations: The schools of Hillel and Shammai even discussed whether it was preferable for humans to exist or to not exist—and the side arguing yes did not prevail (Eruvin 13b)! Surely such a conclusion could lead to despair and a sense of worthlessness.

In the case posed by the questioner: Either of the speakers may well say things that are wrong or hurtful. *But we are grappling with this together.* These questions are new, and they have hardly been adjudicated or fully settled, which is precisely why they remain controversial. In traditional communities, even discussions about women's rights are still considered scandalous and damaging. The

only way forward is to hear the different arguments. You cannot know you are right until you have heard and refuted the best arguments against your views. The suppression of disagreement will not cure, help, or heal.

We need most of all to model this for our children, who will find themselves as adults in an uncensored world and who need to be prepared to hear opinions and ideas that will discomfit or challenge them. If words are too easily equated with harm, we will have a timorous and vapid discourse and will never move forward. Hearing uncomfortable ideas is one way we grow.

Rabba Epstein: The issue of gender identity and expression is an incredibly complex one. First and foremost, the Jewish community must recognize the very real mental health risks that trans and gender-nonconforming children are experiencing. The Trevor Project found that more than half of trans and nonbinary youth have seriously considered suicide in the past year. Protecting the vulnerable among us must be our first priority.

We can't fully explore the tension between protecting freedom of speech and condemning harmful speech here, but we can ask whether Jewish organizations have a responsibility to expose their constituents to ideas they find challenging and even repugnant.

The Mishna in Avot 2:14 provides a helpful framing. Rabbi Elazar states, "Be diligent in the study of the Torah and know how to answer an *Apikorus* [heretic]." This is actually quite a radical suggestion! Wouldn't we assume that students of Torah would be expected to run as far away as possible from heresy?

Maimonides says no. He emphasizes the beginning of the Mishna, which asserts that a person must study her tradition diligently to be able to distinguish between Torah and heresy, and he argues that we are obligated to study and deeply engage with ideas that are counter to our own beliefs. Rabbi Yitz Greenberg teaches that this Mishna is an argument for reasoned faith: "One should teach students by intelligently refuting the wrong views rather than

by training them to close their minds and reject wrong views out of conformity, obedience to authoritarian instruction, or ignorance and stereotype.”

The Mishna is warning us against the dangers of deepening our echo chambers by engaging only with those people who believe what we believe. Instead, we must equip our followers with complexity, nuance, strength, and the capacity to engage in rigorous debate. What if Jewish organizations took on this challenge and saw themselves as responsible for exposing their constituents to ideas that are problematic?

Of course, this still raises the question of whether we need to invite speakers to present in person to our communities, or whether it is enough to engage with their ideas through books, articles, podcasts, or videos. While we have a duty to educate, we also have a duty to ensure that we are protecting our constituents from undue harm.

The rabbis of the Talmud knew this. When they were establishing the practice of public Torah reading (Babylonian Talmud Megillah 25a), they discussed whether they should leave out verses that contain challenging theological and moral ideas. They then categorized a long list of texts in three ways: those that can and should be read, those that should be read but not translated (i.e., not made accessible to the masses), and those that should be neither read nor translated. They thereby acknowledged that there are indeed times when a community may decide that content goes beyond the pale and should not be discussed in public forums.

We must ensure that any speaker we bring to our community understands the audience, has been briefed on their concerns and sensitivities of this community, and does not intend to cause harm or offense. No matter what views one holds, speakers we invite cannot be allowed to deny the experience of any members of our community.

The organizers should also set the educational tone long before the event. They can explain why they feel it is important to

engage with a given speaker, while also explaining that they might not necessarily agree with every point being made. They should be communicative about what might be said and what might be deemed offensive or harmful. All of this allows people to choose to attend the event or opt out. The organizers should also consider how controversial speakers are introduced, and what work must be done with the community before and after the speakers present, perhaps providing facilitated conversations to help people express their views and get support as needed.

We must create communities of understanding, depth, and nuance that can approach complicated issues with intellectual honesty and rigor, while also supporting people through difficult, and even painful, conversations with sensitivity and care. *