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Center for Modern Torah Leadership



חרות ואחריות

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"Taking Responsibility for Torah"

TEACHING RABBIS RABBINIC ETHICS Rabbi Aryeh Klapper, Dean

In light of recent rabbinic scandals, Rabbi Josh Yuter properly suggests on his blog (www.joshyuter.com) that a course on rabbinic ethics be part of *semikhab* programs, and puts forth a suggested curriculum. Certainly our *parsha*, a story of how *klal Yisroel* was failed by its best and brightest, is an appropriate time to reflect on educating our future leaders.

However, I am not confident that courses on professional ethics significantly improve professional behavior, especially where no professional association has the mandate to seek out and punish malfeasance. I don't believe the spies would have made better choices had Mosheh Rabbeinu given them a great *shiur* in *Hilkhot Meraglim*, or even a series of such *shiurim*.

I am also unsure that teaching texts is the best mode of teaching a narrow subset of Jewish ethics. One outcome of general halakhic training is that students learn how to evade and manipulate texts; those of good character use these powers for good, while those of bad character use them for evil. Students of bad character often corrupt the texts they learn, and may even learn new techniques of evil from them.

Let me use one of Rabbi Yuter's suggested texts to illustrate. On *Chullin* 44b, Rav Chisda gives a definition of the status *talmid chakham* that Rashi reads as suggesting a direct connection between Torah academic stature and ethical character. Other *rishonim* read it very differently, however. Here is the statement: *Said Rav Chisda:*

Who is a talmid chakham? One who examines a tereifah for himself.

Rashi explains:

*When a doubt arises that perhaps one of his animals has become a tereifah,
and there is a reason for prohibition and a reason for permission,*

and he does not take pity on it (ADK: meaning on its potential use) and forbids it.

In other words, the true *talmid chakham* is one who is willing to rule against his or her economic interests even when it would have been easy, but not honest, to avoid doing so.

Piskei RID perhaps does not understand the *hava amina*; obviously a true *talmid chakham* cannot permit the forbidden! He therefore transfers Rav Chisda's statement from the realm of substance to that of appearances:

Something in doubt,

where one person gives a reason to permit and another to declare it tereifah, and this (true talmid chakham) adopts the reason to declare it tereifah and is stringent upon himself.

It is appropriate for a talmid chakham to act in this way, as if he would be lenient, people would besmirch him, saying

"He was lenient for himself, but if it had belonged to others, he would have declared it tereifah."

In context, RID's reading seems a better fit than Rashi's. Immediately preceding Rav Chisda's statement, the Talmud tells the following story:

Rabbah permitted a tereifah and bought meat from it.

The daughter of Rav Chisda said to him:

When my father permitted a firstborn animal (for the use of kohanim, by declaring it blemished and therefor unfit for sacrifice), he did not buy meat from it (despite being a Kohen)!?

He replied to her: That was only regarding a firstborn animal, which is sold by estimate; here, the weight is evident.

What grounds are there for suspicion – that they might give me the best cut (for the same price)? They give me the best cut every day!

Here the issue is not direct self-dealing, but rather the suspicion of a kickback or bribe from the animal's owner. Rav Chisda's daughter accuses her husband Rabbah of

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insufficient concern for the appearance of corruption, which supports RID's reading. Perhaps Rashi thought that Rav Chisda's daughter went so far as to accuse her husband of actual corruption. Either way, Rabbah's reply compounds the ethical difficulty rather than resolving it.

Rav Chisda's statement about the true *talmid chakham* is followed by two more using the phrase "one who examines a *tereifah* for himself." Rashi's reading becomes progressively harder to sustain as we read through the series.

Said Rav Chisda:

Who is the referent of the verse "One who hates gifts will live"?

This refers to one who examines a tereifah for himself.

Mar Zutra taught in the name of Rav Chisda:

Anyone who reads Scripture and repeats Oral Torah

and examines a tereifah for himself and served talmidei chakhamim –

Regarding him Scripture says: "When you eat (the product of) your own hands' exertion, you are fortunate and possess the good."

Rashi explains that one who examines a *tereifah* for himself "certainly hates gifts from others, as even regarding his own he is not greedy to decide for the side of permission." Furthermore, "all the more so he will not be greedy regarding the property of others, to steal and rob," and so he eats the product of his own hands' exertion. But it is hard to say that "One who hates gifts will live" refers to someone's relationship to their own property. It is even less plausible to say that the direct referent of "when you eat (the product of) your own hands' exertion" is someone who **refuses** to eat the product of their own halakhic leniency! These difficulties leads Rabbeinu Nissim to cite a diametrically opposed explanation:

But others interpreted:

"Who is a talmid chakham? One who examines a tereifah for himself.

Meaning – that he has reached the level of being able to explain which is kosher and which is tereifah, and is fit to rely on himself and does not need the rulings of others.

Therefore (Rav Chisda) said that "Regarding him Scripture says:

"When you eat (the product of) your own hands' labor, you are fortunate and possess the good."

*Meaning that the exertion he has exerted in Torah causes him **not** to lose money because of a doubt.*

Maharsha argues that the next line of Talmud proves that this explanation is correct:

Rav Zvid said: He merits obtaining a homestead in two worlds, this world and the Coming World. "You are fortunate" - in this world; "and possess the good" – in the Coming World.

According to Rashi's understanding, the scholar who "examines a *tereifah* for himself" is **giving up** this world! So

RAN's alternate explanation must be accepted. The Talmud next describes the behavior of a pair of rabbis, Rabbi Elazar and Rabbi Zeira. Each turned down food sent them from the *nasi's* table, citing the verse "who hates gifts will live"; but whereas Rabbi Elazar also refused the *nasi's* invitations to meals, Rabbi Zeira accepted them, asserting that he was conferring rather than receiving honor by attending.

Rabbis Elazar and Zeira are bookends to Rabbah and Rav Chisda. Like Rav Chisda, who refused even the appearance of benefiting from his own rulings, Rabbi Elazar goes the extra mile to avoid even the appearance of impropriety; and like Rabbah, Rabbi Zeira not only accepts the risk that people will see him as benefiting from his position, he argues that one privilege of his position entitles him to the next. Now that we've learned this text ourselves, it may be tempting to say that students should be taught to emulate Rav Chisda and Rabbi Elazar, and to see Rabbah and Rabbi Zeira as bad examples in this regard, but I contend that would be simplistic.

Rabbis must fundraise, so there's no possibility, especially in small communities, that they will be unaware of who contributes and how much. They cannot fully avoid either the appearance or reality of owing something to the wealthy. That's why Rambam and Shulchan Arukh describe even Rabbi Zeira's behavior as *middat chassidut*, beyond what is required. More sharply, if we are simply placing the text in front of students, what if they are convinced by RAN rather than Rashi, and see in this text no concern for self-dealing or the appearance of impropriety? Even if they adopt Rashi's understanding, what if they choose to see Rabbah as their model in this area, as he is in so many others?

In sum, Rabbi Yuter deserves much gratitude for raising the issue. But teaching rabbis ethics through texts is setting foxes to guard henhouses, unless the teachers and texts have been domesticated. Nor do we wish our rabbinic foxes to become sheep; rabbis who see one interpretation of a multivalent text as absolute in the realm of rabbinic ethics will likely have the same monovision when it comes to releasing *agumot*, or conversion, etc.

I therefore suggest that while deep and intense Torah study is needed here as everywhere to determine our ends, the means for improving rabbinic ethics must primarily involve the development of unambiguous standards, effective and fair modes of investigation, and readily enforceable consequences. *Shabbat Shalom!*

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