

# CENTER FOR MODERN TORAH LEADERSHIP



## THE WALDER CASE AND SUICIDE: LESSONS LEARNED AND NOT LEARNED

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John Donne wrote that “Any man’s death diminishes me, because I am involved in mankind”. I hope that line resonates for you as it does for me.

Any human death one has contributed to, in however minor a way, is an occasion for cheshbon hanefesh. The points below are products of the first stage of reflection. They are not all directly related to the Walder case. I thank the many CMTL alumni whose challenges and criticisms have aided that reflection, and whose thoughts I continue to engage with. The responsibility for the content is purely mine.

Let me start by stating unequivocally that I don’t regret my role as the [“prominent rabbi” cited by JTA](#) supporting Mr. Mordy Getz’s courageous removal of Walder’s books from Eichler’s Boro Park and ShopEichler’s.com. I also think that Walder’s direct victims may celebrate his death, just as Bnei Yisroel sang about the Mitzrim drowning in the Reed Sea even while Hashem silenced the angels.

Walder’s apparent suicide changes nothing. We cannot allow the risk of suicide – however sincere and realistic – to prevent the exposure of predators. In this case, I can’t see how anything that was done should have been changed to prevent that outcome. (One alum suggests that he should have been arrested and placed under suicide watch. I’m not sure of that, but regardless, that was not something that could be arranged by those who did act.)

My reflection is also not related to the question of Walder’s guilt or innocence. I acted as I thought proper given the information available to me, which at the time meant recognizing that there was a small but real possibility of innocence. That’s why my initial Facebook post (see now also the 2021 CMTL End-of-Year Reader) distinguished halakhically between taking necessary precautions, even if they hurt Walder economically and socially, and setting out to punish him. I established a halakhic standard that allowed such precautions even when guilt is not certain.

The evidence that has emerged since makes his guilt certain for all practical human purposes. He committed suicide only following the emergence of that evidence, with the certainty that more would emerge.

But the halakhic standard I set out was reactive to this specific case, and filled what seemed like a halakhic vacuum. It needs to be calibrated in advance as finely as possible – perfection is not humanly possible – to ensure that innocents are not driven to self-harm.

That calibration must include the recognition that our community includes zealots who will inevitably go well beyond whatever we license, and zealots who will insist that only absolute proof justifies any action, regardless of the dangers of inaction. It was for that last group that I cited Niddah 61a’s striking claim that Gedalyah ben Achikam is held accountable as-if-he-had-killed-them for the murder of his followers by Yishmael ben Netinah, because he took no action despite being told of Yishmael’s plot. Gedalyah was not obligated to believe lashon hora about Yishmael, but למיחש מיהא בעי - he was obligated to take precautions as-if it were true. Those who misuse the laws of lashon hora to protect sexual predators may be held similarly accountable for future victims.

Walder’s death doesn’t mean that we should revert to a standard of absolute proof in his case. There is no reason to protect Walder’s posthumous reputation at the expense of his victims and at the risk of encouraging the pretense that we have no other Walders in our midst. The evil that men do is often not interred with their bones. While Jewish tradition certainly contains support for “Acharei Mot Kedoshim Emor”, or de mortuis nihil nisi bonum, it also praises King Chizkiyah for dragging his evil father’s corpse through the streets to communicate complete repudiation of his ways.

We must therefore reject any assertion that because courts don’t try the dead, we can “never really know” that Walder was guilty and therefore must give him the benefit of even miniscule doubt. Criminal trials are not the only way to gain certainty, and they are not always about truth (consider for example rules that exclude evidence not because it is false, but because it was illegally obtained).

We must also acknowledge that the same arguments about certainty apply squarely to Shlomo Carlebach, regardless of what we individually believe that he did or

didn't do. Enough of the argument that there is no point in considering the accusations because he is dead.

We must push for as complete and thorough an investigation of the Walder case as possible, focusing not only on Walder's crimes but on how and by whom they were concealed for decades. WE MUST INSIST THAT THIS REPORT BE MADE PUBLIC.

Without prejudging, we must apply the same standard of transparency to Yeshiva University, where we have much more influence. For example, in isolation, there may be ethically justifiable reasons for YU's silence regarding the alleged rape by a present or former member of its basketball team. But it is unreasonable and wrong for YU to ask for trust-without-verification in these matters. For YU especially, but really at this time for any religious institution.

Despite all this, I think it is worth pondering on a systemic level how to evaluate the suicides of guilty accuseds.

Public discussion of this question has largely revolved around the way that suicide deprives victims of closure and the opportunity for revenge. A strong argument can be made that abusers' obligations to repent and atone include making themselves available to their victims for those purposes. But that is not my concern here.

I also don't think that the issue rests on providing adequate mental health services to accuseds.

Rather, my concern is whether we are conveying a message that anyone guilty of such crimes is incapable of repenting and living a morally productive life; and if we are sending that message, whether we should be doing so.

I am not discussing the factual question of how often current attempts at rehabilitation are effective. I concede that there are human beings who are incapable, barring a miracle, of experiencing genuine remorse for their crimes, let alone of repenting in a way that properly gives us confidence that they will not relapse. Honestly, this is true for most sins, and for just about all addictions – it's just that the stakes here are so high for potential victims.

But I think we have a generally acknowledged theological interest in minimizing the number of souls we write off completely. This is especially so if a significant percentage of sexual predators are born with powerful urges that have no acceptable or even legal outlet. We need something useful and fair to say to such people before they commit crimes, and I think afterward as well. Having nothing to say implies that we don't see them as cast in the Divine mold. We need to face that squarely, and if having faced it we still have nothing to

say, we need to make absolutely sure that we aren't casting our net too broadly.

To sum up:

1. Walder was guilty, and those who exposed his crimes are heroes. Nonetheless, the case reminds us that precautionary actions are often necessary before proof beyond a reasonable doubt is available. We therefore need to calibrate those actions so that they have minimal chance of driving the innocent to suicide.

2. Many criminals attempt suicide after exposure, and we can't know Walder's motives for killing himself. We have no idea of what drove him sexually. But the case reminds us that our society does not see the rehabilitation of many kinds of sex-criminals as realistic, including young offenders whose sexual proclivities may not be a matter of choice. We need to address the practical, moral, and theological consequences of this position, and especially to make sure that the category is drawn as narrowly as possible.

I have one further reflection, which I plan belatedly to expand on in a subsequent essay.

Chaim Walder succeeded in gaining the power-to-abuse within the Charedi community by selling something revolutionary – the right to emotional self-expression. This is not the only route to abuse. I doubt that the proper reaction is to throw the baby out with the bathwater, even if one discards his specific books.

But Modern Orthodoxy should learn from this case that emotional exposure and vulnerability can make abuse much easier. We should be very concerned, for example, about giving anyone, including mental health providers and school counselors, access to children in physically private spaces with an expectation of total confidentiality. We must consider what protocols need to be created or strengthened as our educational and religious institutions increasingly seek to hire teachers and counselors who are charismatic, proactively empathetic and who encourage students and parishioners to “make themselves vulnerable” in the classroom and out. A way of thinking about this might be: How can we have books much like Walder's, without more Walders?

Like the desire for money, the desire for intimacy is a fact of human society, and it must be regulated rather than extirpated. Eras of deregulation are often both necessary and highly susceptible to abuses. We live in an era of emotional deregulation. The Walder case should spur us to consider deeply how we can minimize the inevitable abuses.

Shabbat Shalom!

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