

# CENTER FOR MODERN TORAH LEADERSHIP



## PUBLICIZING THE MISDEEDS OF TORAH SCHOLARS

By Rabbi Aryeh Klapper

Dear Rabbi Klapper,

On Menachot 99, Reish Lakish teaches:

A Torah scholar who *sarach* (literally: “rotted”, meaning that he behaved improperly) –

we do not disgrace him in public,

as Scripture says: “*you will stumble in the day, and the prophet also will stumble with you in the night*” (Hosea 4:5) – conceal him like the night.

Steinsaltz’s Hebrew commentary provides a rationale:

so that the matter not be known to the public, because this would entail a disgrace to Torah

I understand the value of treating another human with respect, and specifically of treating human beings who know much Torah with respect; but the notion of concealing an offense seems to me to be deeply problematic, especially an offense committed by those with great social capital. This seems a recipe for abuse by the powerful, and for coverups that inflict their own ethical and psychological damage on individuals and communities. I’d appreciate your reflections on this passage.

With great respect and appreciation,

Joseph Pulitzer

Dear Mr. Pulitzer,

Thank you very much for reaching out with this question.

The Talmud uses the expression “*margela befumei*” to introduce a scholar’s most-often-repeated pearls of wisdom, or perhaps their most characteristic statement. One of my “pearls” is certainly that “A free press is necessary for a moral society” (see e.g. *My Yeshiva College*, ed. Menachem Butler and Zev Eleff, p. 344, and my Introduction to *Responsibility Inscribed*, ed. Rachael Gelfman Schultz). This position is hard to square with the statement of Reish Lakish as you presented him. So I have some explaining to do.

Your challenge can be framed as a special case of the general issue of how to square the ethically beautiful laws of *lashon hora* with the need for social accountability and protection of the innocent. My general response is that *lashon hora* is permitted *letoelet*, for a sufficient constructive purpose. Halakhic sources provide a checklist for a cost-benefit analysis, and for ensuring that one is making the decision with integrity. Let’s assume that some version of that response is sufficient to prevent *lashon hora*

from becoming an engine of abuse and coverups, recognizing that implementing this response requires constant thorough education.

Similarly, Reish Lakish’s statement is certainly not absolute. The question is only why the public images of scholars and prophets should be treated more solicitously than those of other sinners, or put differently, why he seems to shift the balance, whether slightly or significantly, toward protecting reputations at the inevitable cost of increasing the risk of abuse and coverups.

Let’s also forestall a different red herring by noting that the derivation from the verse in Hoshea is purely homiletical. In Biblical context, the commentaries understand the “prophet” referred to in the verse as a false prophet. Certainly halakhah has no interest in protecting the religious reputations of false prophets!

This statement of Reish Lakish is brought on Moed Kattan 17a with an important variation. The text there is not *מבזין* but rather *מגדיל*, which refers to a form of social ostracism imposed as punishment. This ostracism apparently could be imposed either within the space of the rabbinic community, or else in a manner transparent to the general public. Reish Lakish states that the ostracism of scholars for misbehavior should be kept within the walls of the scholarly community rather than publicized (see the commentary of Meorot).

Ostracism was sometimes imposed on laypeople, but the Talmud reports it (if I am correct) much more often in the context of disputes among scholars, or misbehavior toward scholars. So if this text is correct, Reish Lakish may be dealing with misdeeds that only scholars would be punished for. He accepts this higher standard but doesn’t see why they need to be publicly humiliated for such acts where laypeople would not be punished at all. On this reading, scholars are treated more harshly than others for the same violations.

Moed Kattan 17 also presents Reish Lakish’s position as in dispute with a report by Rav Huna that the High Court, when it sat in Usha, decreed that the head of a *beit din* is ostracized privately for a first *sarach* but publicly if he repeats the misdeed, lest G-d’s Name be desecrated. Indeed, the Talmud – and specifically the section including Moed Kattan 17 – is replete with stories in which public and longstanding ostracism is imposed on scholars. Moreover, Rav’s statement (Berakhot 19) that

“Wherever there is desecration of the Name – we must not consider the honor of rabbis” is universally accepted. So even if one accepts the Steinsaltz commentary assertion that Reish Lakish is seeking to prevent the Torah from being publicly disgraced, Chazal clearly understood that not punishing scholars also puts Torah, and therefore G-d’s Name, at risk of public disgrace.

Rabbeinu Chananel to Moed Kattan 17, and many rishonim after him, cite a statement in the parallel Yerushalmi to the effect that a scholar should not be ostracized “unless they have behaved like Yarav’am Ben Navat and his friends”. Yarav’am is described in Tanakh as causing all Israel to commit idolatry via the Golden Calves he set up in the Kingdom of Israel. So one might see this as a very high standard. However, Yarav’am also generally serves as symbol of one who both sins and causes others to sin. Alei Tamar cites a letter from the Chiddushei HaRim calling those who permitted machine-made matzah “students of Yarav’am ben Navat” as evidence that it refers to anyone whose actions are seen as potentially causing spiritual damage to the community. It seems likely to me that the Yerushalmi understands the statement to be exclusively about culpably wrong acts or decisions made by a scholar in their scholarly capacity, and to have no reference to private sins. Perhaps that was Reish Lakish’s intent as well.

Shulchan Arukh YD 334:42 rules, following the Yerushalmi, that senior scholars are publicly ostracized only for sins meeting the Yarav’am standard, but adds that these scholars are flogged without publicity for all other misdeeds. He then apparently follows Reish Lakish in discouraging the ostracism of ordinary scholars – although without distinguishing public and private ostracism, and again suggesting flogging as an alternative. (I think flogging is seen as preferable because it generates immediate expiation; the scholar now has “served his time” and may once again be treated respectfully by his peers, whereas ostracism may be lifted only after a more extended and emotionally demanding regime of repentance.)

The various limitations I’ve shown so far are, I hope, sufficient to show that Reish Lakish’s statement and the halakhah that incorporates it do not inevitably lead to protecting members of the rabbinic elite at the expense of allowing their rotten apples to get away with abusing others, or covering up such abuse. Of course there is still a risk that Reish Lakish will be cited out of context with malicious intent, as the laws of *lashon hora* often are.

But with all that, I also think that there is some justification for being more cautious about publicizing some sins of Torah scholars (or even prophets) than of others. Before outlining that, I need to emphasize again that it is clear that the risks of desecrating the Name and of enabling abuse often justify being MORE willing to publicize the sins of scholars than of non-scholars.

The prohibitions of *lashon hora* do not arise out of opposition to transparency. It might (or might not) be wonderful if we knew (some or all) people holistically and entirely, all their vices and

virtues, all their sins and good deeds, the way G-d knows us, and more like our intimates know us.

But human beings tend to give bad reports about others disproportionate weight. The problem is not knowing that someone has sinned, but rather that our perception of the sinner will be excessively colored by that knowledge. So halakhah attempts to bias our filters to generate an accurate perception of others, like statisticians reweighting a poll to make it accurately representative.

I suggest that our bias toward the negative is greater with regard to people of whom we have greater expectations. Furthermore, we are more likely to generalize the failure of one person to live up to those greater expectations. “If that rabbi or prophet sins in his private life, probably they all do.” We move easily from great expectations to cynicism. So in a society where people retain higher behavioral expectations of scholars, perhaps our filter needs to be even more biased regarding them.

One might argue that a better approach would be to recognize that Torah scholars are human beings, subject to the same temptations as everyone else. Let’s expect no more or less of them than of nonscholars.

This approach directly contradicts a statement by Rabbah Bar Bar Channah in the name of Rabbi Yochanan on the same Moed Kattan 17a:

What is meant by the verse (Malakhi 2:7) for the lips of the priest will preserve knowledge, and they will seek Torah from his mouth, for he is an angel of the Lord of Hosts?  
If the rabbi resembles an angel of Hashem – they should seek Torah from his mouth;  
but if not – they should not seek Torah from his mouth.

I argued while in semikhah that no human being actually resembles an angel. The Torah mentorship relationship requires students to engage in a willful suspension of critical objectivity. Teachers have the reciprocal obligation to behave in a way that permits their students to suspend objectivity without abandoning integrity. Within that framework, we have an interest in ignoring the minor peccadilloes of great men so long as no one else is being hurt.

A friend argued that I was totally wrong, that she could learn only from teachers who had retained her respect even after she could see their very human flaws.

We may both have been correct, and everything depends on the needs of the people in the relationship

However, I am generally a fan of sustainable hypocrisy. Each of us, individuals and communities, should strive to appear a little better than we are, and then over time to live up to that appearance. There is little virtue in puncturing that veneer so long as the gap between perception and reality could otherwise endure, so long as our naivete is not pretended or giggle-worthy: “I’m shocked, shocked to find that gambling is going on in here”. But it is awfully difficult to draw that line precisely.

Angelically yours, or not, as you prefer,  
Aryeh Klapper