

CENTER FOR MODERN TORAH LEADERSHIP



GETTING TO “WE”: THOUGHTS ABOUT ZIONIST ETHICAL CONVERSATION

By Rabbi Aryeh Klapper

Gedalyah is facing a profoundly difficult choice. His self-conception as a good person is grounded largely in his observance of Jewish speech ethics, aka *hilkhot lashon hora*. Now his friend Yochanan tells him that their coworker Yishmael is sabotaging him with the bosses so that he will soon be fired. Moreover, once he is fired, everyone he has hired over the past decade will be harassed into resigning. Many longstanding clients will also be badly served. He might be able to forestall Yishmael by telling the bosses about Yishmael’s plan, but there’s no guarantee. Regardless, he doesn’t think his moral self-image will ever recover fully.

What should Gedalyah do?

Gedalyah asks another co-worker, his friend Brukhah, for advice. Brukhah’s sense is that Gedalyah’s relationship with Hilkhot Lashon Hora is often unhealthy. She tells Gedalyah to ask the question to the famed posek Reb Yirmiyah and abide by whatever Reb Yirmiyah says. She is confident that Reb Yirmiyah will tell Gedalyah to report Yishmael.

But Gedalyah resists. He certainly respects Reb Yirmiyah’s halakhic knowledge. But they have no prior relationship, so how can Reb Yirmiyah really understand the way in which his *neshomah* has grown and developed around a core commitment to not speaking ill of others? And on the other hand, Reb Yirmiyah has never held an administrative position, so how can he understand the deep responsibility Gedalyah feels for the people he has recruited to the firm, and the clients who have put their faith in him?

Who should make the decision?

In *Duty and Healing*, Dr. Benjamin Friedman explains that there are two different kinds of case-discussions to be had in medical ethics: one is about **who should make the decision**, and the other is about **what decision should be made**. He conceptualizes “who should decide” discussions as rights-based, and “what decision should be made” discussions as duty-based.

Discussions about who should decide often become battles between opposed interests, zero-sum games with everyone trying to win. Discussions about what to do are more likely to become cooperative efforts toward a shared goal. Dr. Friedman therefore argues that medical ethicists should try to center case-discussions in a discourse of duty rather than in a discourse of rights. That way, patients, families, individual doctors, and hospitals etc. can be partners rather than adversaries even if they initially hold very different opinions.

Of course, rights and duties blend into one another. Rights create duties to respect and ensure them, and duties create rights to noninterference and assistance. The discourses cannot be hermetically isolated. For example, a doctor may feel that it is her duty to act in accordance with what she thinks is medically best regardless of what the patient’s family thinks, or a patient may feel that a particular medical decision infringes on his right to define a life worth living. But I am convinced by Dr. Friedman that choosing a default mode makes a difference in practice.

The anthropologist/socioiogist/historian of science Dr. Steven Shapin makes a similar distinction within intellectual discourse in *Never Pure*.

Philosophic conversation often centers on determining the truth or falsehood of propositions. If proposition A contradicts proposition B, the goal is to determine which of them is true and which false.

By contrast, proverbial conversation assumes the truth of every proverb. If proverb A contradicts proverb B, the goal is to determine when and where A is true, and when and where B is true.

For example: Taken as propositions, only one of “Opposites attract” and “Birds of a feather flock together” can be true. But as proverbs, it is easy to say that both describe some kinds of relationships and not others, although it can be very hard work figuring out which is which, and regardless one needs to understand the claims as probabilistic rather than absolute.

Therefore, conceiving of conversations as proverbial rather than philosophic can also help make them collaborative rather than confrontational.

Talmudic discourse, especially with regard to Tannaitic statements, is in the mode of proverbial conversation. Figuring out when/where a statement is true is what we call “making an *okimta*”. Of course the Talmud also thinks in categories of proof or disproof. But I suspect that the Rabbis’ adoption of the proverbial mode of discourse as a default helped halakhic conversation become a centripetal rather than a centrifugal force in Judaism. (Compare with Professor Moshe Halbertal’s thesis in *The Birth of Doubt*.)

The question I want to raise here is whether these models of collaborative discourse— duty vs. rights, proverbs, and Talmud — can help us think through Gedalyah’s case. And then — whether

they together with Gedalyah's case can help us think about conversations about Zionism between American Jews and Israelis.

That's an ambitious agenda, and obviously this can only be the start of our conversation. But I hope I've piqued your interest, and that I'll succeed in motivating you to stay engaged.

Gedalyah is not maintaining a right to make the decision. He isn't claiming that it would violate his autonomy to submit to Reb Yirmiyah. Rather, he is worrying that he has better information than Reb Yirmiyah, so that delegating the decision constitutes a dereliction of duty.

By the same token, Brukhah is not claiming that the decision is too complicated or important for Gedalyah to make himself. She respects autonomy generally and specifically in this case. Her concern is that Gedalyah is so emotionally invested in both his ethical and his professional self-image that he will inevitably be driven by avoidance of emotional pain rather than by duty. Also, she thinks that part of Gedalyah's self-image is problematic.

On the other hand, Gedalyah acknowledges that if he took himself out of the equation, his clear duty is to report Yishmael. Moreover, he knows that Brukhah is also friendly with many of those who will suffer if Yishmael's plot succeeds.

If Gedalyah and Brukhah function as collaborators rather than as competitors, I think they'll find ways for Gedalyah to move forward responsibly. Maybe Brukhah will pose the question to Reb Yirmiyah, or ask for relevant sources, without forcing Gedalyah into a direct conversation that would have uncomfortable overtones of authority; or maybe she'll ask Reb Yirmiyah if he would be willing to talk to Gedalyah with the advance proviso that no Sheilah was being asked. Perhaps they'd think of another scholar to ask, one with a reputation for never imposing a psak unless specifically asked. Or maybe after some conversation Gedalyah would feel comfortable that the posek deeply understood him and his circumstances and would choose to delegate the decision.

The general argument I'm making is that in many difficult situations, the people involved have deep subjective experience and needs that make them far and away the best qualified to make decisions. One halakhic expression of this is *lev yodeia marat nafsho*, the heart knows its own bitterness. The primary use of this phrase is to allow ill people to decide for themselves whether their health requires them to eat on Yom Kippur.

On the other hand, the very depth of that experience and those needs makes two kinds of distorting bias more likely.

First, they may be influenced by self-interest = *negiut badavar*. Self-interest is not necessarily crass – Gedalyah's interest in sustaining his moral self-image is anything but.

Second, they may overgeneralize their own experience and not understand that not everyone else would or does feel the same way.

Law deals with the general case, not with the idiosyncratic, so powerful individual experiences may lead to poor understanding of legal duties.

Finally, of course, people can have deeply mistaken interpretation of their own experiences. Unique epistemological access does not necessarily correlate with better analytic outcomes. You know that you saw little green men, but I know that the kids were dressing up as Martians that day. You know that it felt like a heart attack, but tests show that it was heartburn.

Gedalyah may be wrong about the extent to which his self-image is focused on not speaking ill of others. Actually, what drives him is an unwillingness to choose his own interests over those of others. So he will feel much worse afterward if he doesn't report Yishmael than if he does.

The bottom line is that Gedalyah will probably make better decisions if he can accept Reb Yirmiyah's input, and Brukhah's. But Brukhah may be responsible to do more than just refer Gedalyah to someone else. She may need to be explicit with Gedalyah about his own emotional investments. Moreover, she would be wise to constantly affirm that in the end, the decision is Gedalyah's to make if he wishes to. There is no conflict about rights here, just a shared pursuit of duty. Moreover, every value at play here is legitimate – the question is which values take priority.

At the same time, if Gedalyah exercises his right to make the decision, he may also have a duty to consult with Brukhah and/or other friends and stakeholders, and with someone like Reb Yirmiyah. Making the decision without listening to any external voices is a recipe for error, and those deeply affected may have a right of input. The right to have input does not imply a right to decide, and the right to decide does not exclude a duty to consult.

Any conversation about Israel and Gaza must acknowledge that Israelis have a depth of experience – with terrorism, loss, battle, trauma, and much more – that American Jews do not have (and G-d-willing will continue not to have, despite the horrific murders of Yaron Lischinsky and Sarah Milgrim). Israelis are also the primary stakeholders. This is true even if we have first-degree relatives in the army etc... It remains true despite the murders.

I think it would be helpful if the conversation acknowledged the ways in which intense subjective experiences can obscure as well as illuminate complicated questions of duty.

Regardless, the experiential gap cannot mean that Israel's friends are not allowed to express advice and opinions, or that Israel has no interest in hearing them

Moreover, I believe that Israel's willingness to hear and even seek advice from friends will reinforce their commitment to Israel's right to make its own decisions in the extraordinarily hard circumstances that it currently and constantly faces.

Shabbat shalom!

The mission of the Center for Modern Torah Leadership is to foster a vision of fully committed halakhic Judaism that embraces the intellectual and moral challenges of modernity as spiritual opportunities to create authentic leaders. The Center carries out its mission through the Summer Beit Midrash program, the Rabbis and Educators Professional Development Institute, the Campus and Community Education Institutes, weekly Divrei Torah and our website, www.torahleadership.org, which houses hundreds of articles and audio lectures.