

YLJC Judaism 101

***JUS IN
DISPUTATIO:
JEWISH ETHICS
OF DEBATE***

Study pack

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THE RIGHT SORT OF CONTROVERSY

A controversy for the sake of Heaven will have lasting value, but a controversy not for the sake of Heaven will not endure. What is an example of a controversy for the sake of Heaven? The debates of Hillel and Shammai. What is an example of a controversy not for the sake of Heaven? The rebellion of Korach and his associates.

Pirke Avot 5:17

THE RIGHT SORT OF ARGUMENTS

After failing to convince the Rabbis logically, Rabbi Eliezer said to them: “If the halakha is in accordance with my opinion, this carob tree will prove it.”

The carob tree was uprooted from its place one hundred cubits, and some say four hundred cubits. The Rabbis said to him: “One does not cite halakhic proof from carob trees.”

Bava Metzia 59b

THE RIGHT SORT OF TONE

Asperity of speech to be avoided: To prevent misunderstanding, and for avoiding of offensive speeches, when matters are debating in the House of Lords, it is for honour sake thought fit, and so ordered, that all personal, sharp, or taxing speeches be forborn, and whosoever answereth another man’s speech shall apply his answer to the matter without wrong to the person.

Standing Order 32 of the House of Lords

Anyone who humiliates another in public, it is as though he were spilling blood: we see that after the humiliated person blushes, the red leaves his face and whiteness comes in its place, which is tantamount to spilling his blood.

Bava Metzia 58b

A Roman matrona asked Rabbi Yossi bar-Chalafta, “What has your God been doing since creating the world?” He answered: “Pairing husbands and wives.”

She said: “Well I can do that.” Rabbi Yossi warned: “It is as difficult for the Almighty as the parting of the Red Sea.” Then he left.

What did the Matrona do? She took a thousand male slaves and a thousand female slaves, lined them up in rows, and announced, “So-and-so will marry so-and-so, and so-and-so will be married to so-and-so,” etc.

The next day they reported for duty. This one had his brains poking out of his head, that one lacked an eye, another a broken leg. The matron asked: “What happened?!”

The females said, “I don’t want him!” The males said, “I don’t want her!”

Genesis Rabbah 68:4

The fact that the message could have been conveyed by means other than parody should not be significant. If this were not so there would be no scope at all for parody, because the message could always be conveyed more directly, if less convincingly, by production of a leaflet or else a letter to the editor. The medium could well be the message.

A society that takes itself too seriously risks bottling up its tensions and treating every example of irreverence as a threat to its existence. Humour is one of the great solvents of democracy. It permits the ambiguities and contradictions of public life to be articulated in non-violent forms. It promotes diversity. It enables a multitude of discontents to be expressed in a myriad of spontaneous ways. It is an elixir of constitutional health.

Albie Sacks, (Jewish) former Judge of the Constitutional Court of South Africa: Laugh It Off Promotions v SAB International [2005] ZACC 7

Rabbi Yehuda haNasi said to the Sage Levi, his student: “Judging by his question, it seems to me that this Sage has no brain in his head.”

Yevamot 9a

THE RIGHT SORT OF TARGET

One appoints a leader over the community only if he has a basket of reptiles on his back. Why is that? It is so that if he exhibits a haughty attitude toward the community, one can say to him: “Turn and look behind you.”

Yoma 22b

God said to Moses and Aaron, “My children are obstinate, bad-tempered, and troublesome. In assuming leadership over them, you must expect that they will curse you and even stone you.”

Exodus Rabbah 7:3

Imma Shalom was Rabban Gamliel’s sister. There was a Christian philosopher in their neighbourhood who disseminated about himself the reputation that he does not accept bribes. They wanted to mock him and reveal his true nature.

She privately gave him a golden lamp, and she and her brother came before him, approaching him as if they were seeking judgment. She said to the philosopher: “I want to share in the inheritance of my father’s estate.” He said to them: “Divide it.”

Rabban Gamliel said to him: “It is written in our Torah: ‘In a situation where there is a son, the daughter does not inherit.’” The philosopher said to him: “Since the day you were exiled from your land, the Torah of Moses was taken away and the Christian gospels were given in its place. It is written there: ‘A son and a daughter shall inherit alike.’”

The next day Rabban Gamliel brought the philosopher a Libyan donkey. Afterward, Rabban Gamliel and his sister came before the philosopher for a judgment. He said to them: “I proceeded to the end of the gospels, and it is written: ‘In a situation where there is a son, the daughter does not inherit.’”

She said to him: “May your light shine like a lamp,” alluding to the lamp she had given him. Rabban Gamliel said to him: “The donkey came and kicked the lamp,” thereby revealing the entire episode.

Shabbat 116a-b

The Court observes that the publications complained of contained criticism of the two politicians in strong, polemical, sarcastic language. No doubt the plaintiffs were offended thereby, and may have even been shocked. However, in choosing their profession, they laid themselves open to robust criticism and scrutiny; such is the burden which must be accepted by politicians in a democratic society.

The European Court of Human Rights: Ukrainian Media Group v Ukraine [2005] ECHR 72713/01

THE RIGHT SORT OF CRITICISM

Before speaking lashon hara, seven conditions must be met:

- 1 The speaker must have witnessed the wrongful conduct themselves, rather than knowing about it from rumour. If they have only heard about the incident, then they must verify its authenticity.
- 2 The speaker should reflect thoroughly that the conduct in question is truly a violation according to halacha.
- 3 The speaker should first approach the transgressor privately, and rebuke them with gentle language (such that the transgressor would be inclined to listen), because perhaps this can have an impact and inspire the person to improve his ways.
- 4 The description of the sin should not be exaggerated.
- 5 The speaker must have pure intentions and should not enjoy the transgressor's disgrace, nor act out of hatred.
- 6 If the purpose of speaking the lashon hara (eg causing the sinner to repent or warning the community to stay away from such activity) can be achieved in another way, it is forbidden to speak lashon hara.
- 7 The lashon hara should not cause the transgressor more damage than would be appropriate as determined by a court of Jewish law reviewing the case.

Chofetz Chayim (1873)

Depending on the circumstances, the matters to be taken into account include the following:

- 1 The seriousness of the allegation. The more serious the charge, the more the public is misinformed and the individual harmed, if the allegation is not true.
- 2 The nature of the information, and the extent to which the subject-matter is a matter of public concern.
- 3 The source of the information. Some informants have no direct knowledge of the events. Some have their own axes to grind, or are being paid for their stories.
- 4 The steps taken to verify the information.
- 5 The status of the information. The allegation may have already been the subject of an investigation which commands respect.
- 6 The urgency of the matter. News is often a perishable commodity.
- 7 Whether comment was sought from the subject. They may have information others do not possess or have not disclosed.
- 8 Whether the article contained the gist of the subject's side of the story.
- 9 The tone of the article. A newspaper can raise queries or call for an investigation. It need not adopt allegations as statements of fact.
- 10 The circumstances of the publication, including the timing.

Lord Nicholls of Birkenhead, former Law Lord: Reynolds v Times Newspapers [1999] UKHL 45

THE RIGHT SORT OF TOLERANCE

Just as the faces of people are not alike, so also their views, and each person has their own opinion. When he was on the point of death, Moses begged of God: “Creator of the Universe, the views of every one are well known to you and your children’s views are not all alike. When I depart from them, I pray, appoint them a leader who will be tolerant of each person’s view.”

Numbers Rabbah 21:2

Tolerance is a central value on the public agenda. If every individual in a democratic society seeks to realize all of their desires, in the end society will not be able to realize even a small number of its desires. Proper social life is naturally based on reciprocal concessions and mutual tolerance.

Tolerance means respect for the personal opinions and feelings of every individual. Tolerance also means attempting to understand others, even if they behave in a way that is unusual, and tolerance means protecting opinions, ideas, and beliefs.

Tolerance means the willingness to compromise: compromise between the individual and society and compromise between individuals. This willingness to compromise does not mean waiving principles, but it does mean waiving the use of all means to realise goals. Tolerance is not a slogan for accumulating rights, but a criterion for granting rights to others.

Aharon Barak, former Chief Justice of Israel: Re'em Engineering Contractors v Municipality of Upper Nazareth CA 105/92 (1993); The Judge in a Democracy, Princeton University Press (2006); and Hoffman v Director of the Western Wall HCJ 257/89 (1994)