

Protest Demonstrations

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There is perhaps no group of Jews "held in as much disdain by their fellow Jews in both Israel and the United States" as the ultra-Orthodox "*Haredim*."¹ At the same time, many have praise for their spiritual courage which never wavers in confrontation with those they believe to be secular non-believers.² There is no question, however, that they arouse tremendous hostility, especially when they throw stones at Sabbath-desecrators or make other volatile objections to activities they perceive as unacceptable.

Whether or not one finds their behavior embarrassing is not the issue. What is of utmost importance is to know whether their public protests have intrinsic value, or whether, on the contrary, they are causing more harm than any good they might achieve and could even be a causing a *chilul hashem*.

The "Ultra-Orthodox," or *Haredim* as they are known in

1. Murray Polner in a book review in *The New York Times*, June 1992.

2. See Norman Lamm, "The Ideology of Neturai Karta according to the Satmar Version," *Tradition XIV*, Fall 1971.

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Israel, have for many years been perceived by the overwhelmingly secular Jews of the State of Israel as a thorn in their collective side. There is resentment at the "religious coercion" they are accused of perpetrating as the price for their political allegiance, and anger at the stone-throwing for Sabbath desecration, as well as other efforts to prevent people from following a secular lifestyle.

To what extent does the Jewish religious law approve public protests against desecration of Jewish law? This is the question we will explore herein.

In the Talmud (*Shabbat* 54b), we are taught: "Whoever could have protested or prevented [a sin] and made no protest, will be punished for that sin."³ This declaration arises from

3. This is the reason the Gemara gives for the death of the wife of R. Chanina b. Tradyon (*Avoda Zara* 17b). Furthermore, in *Shabbat* 119a, we are told "Jerusalem would not have been destroyed had it not been that they did not protest or prevent each other [from sinning]."

For a full discussion of this point and many issues relating to the mitzvah of *hocheach tochiach*, see *Sedei Chemed*, part 6, 381. Some of the topics discussed there include the following:

A) Does this mitzvah require an individual to go out and look for opportunities to perform it, or is it sufficient that when one sees someone doing the wrong thing, he reprimand him?

B) Is the "*gadol hador*" the same as all other individuals with respect to this mitzvah, or is he under a special obligation to seek out evil so that he may eradicate it?

C) The mitzvah of reprimand applies also to rabbinic decrees (*derabbanan*). What if the sinner is not aware that what he is doing is forbidden? Does it matter if the action is inherently permissible, but is forbidden only by a *gezera* of the rabbis? See also *Birkei Yosef*, 608:1.

D) Does *tochacha* (reproof) apply if the sinner is violating a positive commandment, or only a negative one? See *Sefer Chasidim* 5, footnote 1.

the rabbinic understanding of the biblical verse, *hocheach tochiach*, "you shall surely reprove" a fellow Jew whom one sees in the commission of a sin (*Vayikra* 19:19).

The Midrash relates that three individuals were involved in advising Pharaoh what to do with the Jews: Bil'am, Job, and Jethro. Bil'am advised Pharaoh to throw all newborn Jewish boys into the Nile, Job maintained silence, and Jethro fled. The Midrash continues that G-d punished Bil'am for his evil advice, and he was eventually put to the sword by the Jewish people. Job, for remaining silent, was punished with dreadful maladies, while Jethro, who opposed the plot, was rewarded that his descendants were among the wise men who sat on the Jewish High Court in the Temple.

The Brisker Rav asks a pointed question on this Midrash – why was Job punished? What did he do wrong? Certainly he did not bring any harm upon the Jews? But, responds the Brisker Rav, he kept silent, and that in itself makes him somewhat culpable. Because, when it hurts, a person screams. If Job remained silent, it is a sign that the iniquity being perpetrated did not bother him.⁴

So, too, we may draw the analogy to the present question: if a person does not protest a sin's commission, it means that the defiance of G-d's will doesn't bother him, or else he would not be able to remain silent.

Rambam permits the Beth Din to "temporarily uproot" some religious requirements "in order to strengthen the

E) To what extent does the concept of *kavod habriot* (respect for individuals) impact on the performance of the mitzvah of *tochacha*, if at all?

F) If the sinner repents and is forgiven by *Hashem*, will the person who failed to protest also be forgiven retroactively?

4. *Sefer Batei Halevi'im* p. 86, #218.

faith" or "in order to bring the public back to the religion or to save them from making a grave error."⁵ Does this license to suspend a Torah law apply only to the Supreme Beth Din, or can private individuals also decide that it would be advisable not to follow a biblical directive in a certain situation? In view of the express dictate of the Torah to rebuke a Jew whom we see committing a sin, does Jewish law *permit* us to look aside in silence when we see fellow Jews acting contrary to the clear demands of Jewish law? Perhaps those Jews who cast stones at people riding in cars on the Sabbath are doing the right thing. Perhaps those of us who look by idly are actually doing the wrong thing. Is our silence tantamount to acquiescence?

Simply put, the question is – must one thunder in protest against all public transgressions, regardless of the consequences, irrespective of the hostility for religion which it might engender? Does one have to consider the likelihood of success? May one, or must one, take into account the negative effect that protest might arouse?⁶

5. *Hilchot Mamrim* 2:5. In *Divrei Yoel, I, Yoreh Deah* 35:4, the author says it is forbidden to tell someone to violate a rabbinic stricture in order to get him to fulfill a biblical imperative.

6. The following story is told in the name of the *Chafetz Chaim*: A Jew who had been careful to observe mitzvot all his life passed away, and stood before the Court of Divine Judgment. The accuser called out – "This man transgressed the Sabbath."

"No, no, he protested, I was very careful to keep even the smallest detail of every stringent law."

"This man did not observe the laws of family purity."

"No, no, how can you say that, I was very careful to do exactly every thing I was required."

"This man ate non-kosher food."

"What a lie! I ate only *mehadrin*.." How could he be accused so falsely when he had been so diligent to keep every detail, he demanded to know.

The Parameters of *Tochacha*

It is difficult to know just what the commandment of *tochacha* includes: is it a purely functional⁷ directive, which is concerned only with helping the sinner mend his ways, or can it be that there are other motives or reasons for voicing protest – perhaps so that others will not think the sinful action is acceptable, or even to impress upon the sinner that his action is wrong, even if there is no hope that he will change his ways at this time?⁸

Furthermore, we need to clarify which means are valid in performance of this mitzvah. Is it sufficient to utter a verbal protest? Must one be galvanized into action and prevent the sin at all costs, perhaps even to prevent it physically or by calling in the legal authorities of the city?⁹

"Ah, " the answer came back, "but you didn't trouble to do anything to influence others, to get them to keep the laws too."

Perhaps that is something else we have to keep in mind – that part of our responsibility as Jews is to uplift the entire Jewish community, not only our own selves.

7. Rambam, *Hilchot Deot* 6:9, praises the person who forgives and overlooks an injustice done to himself. How does this accord with the obligation to make known to the sinner his transgression?

8. How should a person react to a sinner who refuses to change his wrongful behavior? Is it permitted to dislike him, even though we are bidden not to hate another Jew? See Rambam, *Hilchot Rotzeach* 13:14 and *Avail* 14:1, *Sefer HaChinuch* 238, *Hagahot Maimuniyot Hilchot Deot* 1, *Tanya*, chapter 32.

9. See *Avnei Nezer Yoreh Deah* 461, who sanctioned and even encouraged the use of government agents to close down a brothel. Earlier, the Rashba had allowed Jewish communities in Spain to employ whatever powers they had, in order to stop a sinner, "whether in administering lashes, or to cut off a hand or a foot, or even to kill him." (*Teshuvot HaRashba* 5, 238.)

The Satmarer Rebbe advocated public demonstrations in America to put pressure on the Israeli government to change political and

Over and above the requirements of the mitzvah to reprove and reprimand a sinner, to try to restore him to proper behavior, there arises the very serious question of public protest – is it the same as a private admonition, or do other criteria arise? This will be the main focus of our study herein – what are the proper limits of *tochacha* in the public arena, and what factors should be taken into account before speaking out publicly to protest an action perceived as sinful?

Giving *tochacha*, reproof, is a very delicate matter. One fears to raise a hue and cry in a situation which does not warrant it. The Gemara in *Sanhedrin* 101a writes that Yeraveam (king of Israel) was punished "because he criticized Solomon in public," indicating that it was a severe infraction to take the king to task in front of other people. On the other hand, the Rambam writes in *Hilchot Deot* 6:8,

But pertaining to matters between man and G-d, if the person did not repent in private, he is to be shamed in front of many people, and we publicize his sin and disgrace and curse him until he returns to the good, just as all the prophets of Israel did.

social policies. He was of the opinion that public pressure would embarrass the Israeli government and possibly cause them financial harm, thus forcing them to desist from those policies to which he objected (*Vayoel Moshe* 113.) Although he does not spell it out precisely, it is possible that the Rebbe felt it was necessary to demonstrate against religious transgression particularly in the Land of Israel, since in the minds of many people, Israel represents the Jewish people and Judaism. He might also have been of the opinion that a sin committed in Israel is more serious than one committed elsewhere, since it is a holy place and a sin there is more sacrilegious, and therefore requires public denunciation.

For further details on this mitzvah, see *Sefer Chasidim* 5 , *Terumat Hadeshen* 276 (as quoted in *Shaarei Chaim* #1, p.5. However, this text does not appear in the standard version of *Terumat Hadeshen*), and the *Netziv*, *Ha'amek She'ela*, *Bereishit* 27, no. 6.

At times, however, the prophet tempered his criticism of the Jewish people. We find in the Torah that when the Jews sinned, Moshe turned on them angrily with the challenge, "How long do you intend to keep on angering G-d?" Yet, when addressing the Almighty on the same occasion, Moshe played down the incident, mildly asking, "Why, O Lord, are You getting angry with Your people?" It seems that at one and the same time, it is necessary to admonish the sinner, yet to try and minimize his transgression in the eyes of Heaven. One must follow the example of our great teacher, and search for mitigating circumstances.

Nevertheless, love for Jews cannot erase the necessity to castigate. If children or young people constantly hear us excusing sinners and sin, how will they know that they should not follow suit? Will they not similarly find excuses for themselves as well?

Our Sages constantly reiterate that the most important quality, the highest desideratum, is peace; a person must always be cognizant of the ill will his criticism may engender, perhaps even to the extent of holding his tongue rather than sowing hatred. Yet we do not necessarily believe in peace at any price. In his Code of Law, Rambam rules that a judge ought to pick a fight with the person who deserves to be argued with, even "cursing him or pulling out his hair."¹⁰ Apparently, then, truth need not be sacrificed on the altar of peace.

Looking Away

By now, many people may have reached the conclusion that it might be more prudent to look away rather than

10. *Hilchot Sanhedrin* 24:8.

constantly confront non-observant Jews with the culpability of their behavior. Some may even argue, quite convincingly, that if we truly wish to effect a change in the behavior of sinners, we cannot be successful with a policy of confrontation. Love, acceptance, moderation are counseled as being far more effective.

They may be right. But before we can experiment with various methods of "outreach" we have to be sure that, halachically, we are permitted simply to ignore the commandment of *tochacha* just because it puts us in an embarrassing position or even because it will not be effective. We have to be sure that our premonition that *tochacha* might be counter-productive, is a sentiment we can act upon. After all, *hocheach tochiach*, the Torah tells us, "you shall surely rebuke" a fellow Jew whom you observe sinning. What gives any person the right to second-guess the Torah, if *tochacha* is what the halacha specifically requires? And what gives any Jew the right to abrogate a mitzvah because he feels it will not be efficacious?

Consequently, it behooves us to look more carefully at the actual dictates of the mitzvah of *tochacha* and develop insights which will enable all Jews to establish contacts with each other on a basis firmly sanctioned by the halacha. We shall do this presently.¹¹

11. The question of looking away rather than rebuking is especially important now that there are so many non-observant Jews who are gradually finding their way back to religion (the *Ba'al Teshuva* movement). Must one tell a newly-observant Jew all the things he is doing wrong right away, or is it permissible to wean him gradually from his former lifestyle?

These issues are discussed in a pamphlet about dealing with *Baalei Teshuva* and their unique problems, *Shoalim BiTeshuva*. The author advises going gradually to habituate the newly observant in observance of mitzvot. However, once he is well grounded in

Hundreds of years ago, the Rashba already reflected on this problem. Basing his conclusions on a talmudic text in *Avoda Zara* 16a, the Rashba counsels that "it is not possible to treat all people the same."¹² Therefore, he counsels

his belief, one must not allow him to transgress any commandment.

However, it seems to this writer that this does not quite accord with the approach of the Rashba. For example, if a man has decided to become observant and his wife does not go along with his new thinking, should the religious counselor advise him to divorce her, or is he permitted to keep silent about her lack of observance and work slowly towards the possibility that she, too, will repent? It seems to me that the Rashba might not necessarily counsel such a strongly affirmative approach, but might advocate going slowly, before urging the man to divorce his wife.

In the *Gemara Sota* 48, a similar sentiment is voiced: faced with two bad situations, the rabbis advised trying to tackle one before taking on the other. Head-on confrontation is not always the wisest solution.

R. Moshe Feinstein used the above text very often in ruling on practical issues arising from the *Baal Teshuva* movement. His general advice was to try and avoid making any situation worse.

See also *Tenuat Hamussar* I, p. 164, where the author relates the phenomenal success of R. Yisrael Salanter in bringing an entire Jewish community back to observance of mitzvot, by employing a very gradual and "laid-back" approach.

Rabbi Ovadia Yoseph refers to all these sources in a responsum published in *Yabia Omer* 6:14, debating whether one should advise a woman who wears mini-skirts that it is preferable to wear pants.

12. See *Responsa of Radvaz* I:187, who displays considerable flexibility on the matter. See *Yoreh Deah, Hilchot Nidui VeCherem*, and the *Shach* and *Taz* there.

But the Rashba's position is difficult to defend, based on the conduct of King Shaul, who was silent when detractors insulted his kingship. The Gemara criticizes the king for this (*Yoma* 22b). Despite this, the Rambam also clearly advocates a person's forgiving the one who has wronged him, rather than confronting him with reproof (*Hilchot Deot* 6:9).

prudence and forethought rather than an automatic response.¹³ The Rambam, too, says that one should "look away" when he sees his friend doing the wrong thing.¹⁴ The Rambam does not explain how this conforms with the requirement to chastise a fellow Jew who is sinning, but nevertheless, we see that the rabbis do consider it permissible at times not to fulfill the mitzvah of *tochacha* immediately.

The same approach is evident in the *Tiferet Yisrael*,¹⁵ who comments that at times it is not wise to seek a confrontation. "Let him not fight with them, because not only won't it help, but it may actually cause harm."

Why *Tochacha*?

Leaving aside, for the moment, the thorny question of whom to rebuke or when or if to rebuke, let us turn to another side of the question – what is the purpose of *tochacha*? Is it only to prevent a sinner from continuing his actions? Possibly we can adduce an alternate or additional goal: to make a public protest, to set the record straight. In this latter scenario, it is not necessary for the reproof to be success-oriented in order to succeed in its true purpose, which is to make a public statement about what is right. Our rabbis have expressed varying opinions on this.

In *Hilchot Deot* 6:7, the Rambam states that "if someone sees his friend sinning or following an undesirable path, it is a mitzvah to return him to the good [path]." So, too, the *Sefer HaChinuch* (239). These rulings indicate that *tochacha* is to be viewed as a mitzvah with a specific purpose, namely,

13. *Responsa Rashba* V: 238.

14. *Hilchot Deot* 5:7.

15. *Tiferet Yisrael, Pirkei Avot* 4:18.

preventing further transgression.

But other scholars do not view the mitzvah simply as one defining relations between man and man,¹⁶ but rather as a mitzvah between man and God. Thus, *Nimukei Yosef* insists that one must admonish a sinner "even if it is clear to him that he will not listen."¹⁷ The putative success of the reproof has no bearing on the requirement to voice it. Other *Acharonim* concur, noting that although one does not receive punishment for those he rebukes who do not mend their ways, nevertheless, the responsibility to rebuke remains.¹⁸

Protest Demonstrations

There can be little question that over the years the protests, the demonstrations, the rocks thrown at Sabbath desecrators, have had virtually no success in stopping the activities being protested. At best, the rock-throwers have been able to push Sabbath desecrators into neighborhoods other than their own, to pursue their activities. At worst, it is highly likely

16. The Gemara in *Erechin* 16 and the Rambam in *Deot* 6:9 concur that if a person is sinned against, he should forgive the transgression. How does this jibe with the imperative to give reproof and to help a fellow Jew to mend his ways? If I forgive his wrongdoing, how will he learn not to do it again? Furthermore, the *Sefer HaChinuch* in no. 239 opines that in addition to the positive exhortation to rebuke the sinner, there is also a negative prohibition, "do not stand by while your friend is in mortal danger" "*lo ta'amod*." In other words, if I don't rebuke him, I am letting him cause himself mortal (spiritual) damage, and therefore I am obligated to rebuke him. However, if the sinner is not willing to accept rebuke, the negative commandment does not apply.

17. *Nimukei Yosef* to *Yevamot* 65.

18. See *Ravya*, brought in *Hagahot Maimuniyot* to Rambam, *Deot* 6. Also *Magen Avraham* 608:3.

that the demonstrators have aroused much hostility towards the very system of beliefs they are trying to defend. Why do they persist? Is there justification for what they are doing?

An article in the Israeli periodical *Techumin* remarks on this very point:

Demonstrations are not mounted for the sake of "separating the sinners from sin" nor because of the laws of the mitzvah of *tochacha*, but rather for the reason that the matter should not become a problem in future generations ...and the Sabbath will, God-forbid, be trampled in public...¹⁹

Here we find an important reason for demonstrations taking place: to try and make sure that certain Jewish concepts and values not be relegated to oblivion, to keep alive in the minds of the public that traditional Jewish practices still demand our observance.

There are other motives as well, which would amply justify the protests of the demonstrators, even if not necessarily their tactics. First of all, no Jew should have to tolerate seeing a violation of Jewish law take place in front of him. R. Moshe Feinstein makes this point in a responsum to a *mohel* who asked if he was obligated to perform a *brit milah* on the Sabbath in a place where he would have to see them violating Sabbath law.²⁰

In addition, we should consider the other side of the coin – if people desecrate the Sabbath openly in a public place, or otherwise publicly flout Jewish law, and there is no reaction, it might give the impression that there is nothing wrong with their behavior. Perhaps it is very important that

19. *Techumin* 7, p. 118.

20. *Iggerot Moshe, Yoreh Deah* 156.

demonstrators publicly exhibit their anger and their protest at the evil which is being perpetrated, at least to make the point that this behavior *is* evil, that it *is* an abomination in the eyes of G-d. Otherwise, it appears as if flagrant disregard of G-d's word is no cause for pain or anger in the hearts of other Jews. As King Solomon observes in *Mishlei* 24, "Someone who tells a wicked person (*rasha*), 'You are righteous (*tzaddik*), deserves to be cursed.'" A public rejection of Torah ethics calls for a public affirmation that such action is reprehensible.²¹

Perhaps the most convincing argument, halachically, is that since all Jews are considered "*arevim zeh bezeh*," jointly responsible for one another, it follows that each Jew bears part of the responsibility for the transgressions of his fellows, and that he must do all he can to prevent another person from sullyng their common heritage.

A seminal issue which has fundamental relevance for this question is the nature of the Jewish people. Is the Jewish people one organic entity, or do all Jews, taken collectively, constitute "the Jewish people?" The Radvaz sees all the Jews together "as one body" sharing a common source for its soul.²² The *Zohar* (Chapter 32) compares the Jewish people to travelers on a ship. If one starts drilling a hole in the floor of his cabin, he endangers all the passengers on the vessel. Thus, one person's sin devolves upon the entire nation, lowering its spiritual status. Alternatively, however,

21. *Ba'al Akeda*, parshat Vayera.

22. *Mamrim* 2:4. The same view is held by the *Avnei Nezer*, *Yoreh Deah* 16. The Rambam similarly considers that we are all one (*Sefer HaMitzvot*, positive command 205.) At the end of his book on *Taharot*, the *Chazon Ish* writes that *klal yisrael* is one unit; when a person gives *tochacha* to improve the conduct of others, he is in reality helping himself.

one could view the Jewish people as being made up of many individuals, each one with his own spiritual level reflecting his own personal achievements.

The decision as to when or if to make a public protest in the face of open disobedience to Jewish law has to come to grips with this question. For if we constitute one "body," each person has the right and obligation to stop any and all persons from harming their mutual "body." However, if we are only an aggregate of individuals, we might well arrive at a different approach to public protest.

Maharam Schick advances two compelling reasons why Jews must rebuke one another for public wrongdoing:²³ First he points out that the mitzvah of *tochacha* requires us to try to bring the sinner to repentance. Since that is the purpose of reproof, he advocates employing pleasant tactics, which have a far greater chance of success. Secondly, he finds the principle of *arevut*, mutual responsibility which all Jews have for each other, as a major reason for demonstrating to transgressors that their behavior is intolerable. It harms not only the individual sinner, but the entire Jewish people as well.²⁴

We are obligated to try to prevent [the transgression]

23. Maharam Schick, *Or HaChaim* 303. He tries to resolve the apparent contradiction between the Ramo in *Yoreh Deah* 157 and 334 and *Choshen Mishpat* 12. The question discussed by the Ramo is whether one is required to give *tochacha* if it will result in his losing money. The *Avnei Nezer*, *Yoreh Deah* 15, commenting on this point, holds that losing one's job is not considered as losing money—it is only losing income, which is not the same. This is deduced from *Kiddushin* 30a.

24. See *Techumin* 5, p. 283. Rav Kook's views on this matter are also elucidated there, including his discussion of the responsibility of women in this regard.

in any way that will be effective...and who would dare to say that we ought to keep silent ...when we see the danger to our souls.

If nothing else, when a person openly protests at the wrong that is being perpetrated, he removes himself from the group which is jointly responsible.²⁵ Therefore, no one can challenge a demonstrator – why are you butting in, what's it your business? The obvious answer is, No, it is very much my business (and if I don't try to stop you, I too will be punished for your sin.)

Lack of Success

One must admit that most demonstrations mounted by the Ultra-Orthodox have made little impact on the actual behavior of secular Jews. The almost instinctive reaction, then, is to blame the methods of the protesters, with the concomitant assessment that had they employed other means, they would have been more successful. However, this may be analagous to killing the messenger when one dislikes the message. We ought to consider the possibility that there is no way Sabbath-desecrators in this day and age are going to stop riding on Shabbat, just because some "religious fundamentalists" object.

It may even be that the anti-desecration demonstrators are fully aware of the futility of their protest but feel obligated, nevertheless, not meekly to accept wholesale public contempt

25. In *Techumin* 7, p.127, note 4, the approach of the *Biur Halacha* is explained. See the commentary of *Or Hachaim* at the end of *parashat Kedoshim*, who maintains that people who are themselves righteous will nevertheless be expelled from the Land of Israel due to their silence when others commit sins. Some interesting comments on this situation appear in "Jew and Jew, Jew and Non- Jew," by R. Aaron Soloveichik.

for the Torah and its values. There may be overwhelming value in that alone, in their anguished defense of beliefs which the majority of Jews have rejected but which, despite this, remain the word of G-d. There is something very admirable and noble in people who feel pressed to uphold the dignity and sanctity of the Torah despite the callous rejection of the secular majority. According to the Maharal²⁶ the act of giving *tochacha* is evidence of a person's pride in the value system he is defending.

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On a practical level, how should we respond to the relative failure of protest to make a significant positive impression upon those towards whom it is directed? Is the flaw in the techniques or personalities of the demonstrators, or the callousness of the sinners?

There are many rabbinic writings which indicate that *tochacha* has never been a very popular or successful undertaking. In the Gemara, Rabbi Tarfon remarks that if someone would turn to his fellow man and say, "Remove the splinter from between your teeth," he would get the retort, "Remove the beam from between your eyes."²⁷ People did not then, nor do they now, appreciate having their faults pointed out to them, and the response is often a defensive turning against the one pointing out the fault.²⁸

26. *N'tiv Hatochacha*, chapter 2.

27. *Erechin 16b*. The Maharal discusses whether this retort has validity or whether it is just said as an excuse.

28. The Maharal exalts the one who can accept rebuke (*N'tiv HaTochacha*), but evidently not everyone is able to live up to the standards of the Maharal. See also *Rabbenu Bachaya*, beginning of *parshat Shemot*.

In analyzing this phenomenon, the Gemara notes²⁹ that rebuke has little chance of succeeding, for the recipient almost always responds with hatred for the one pointing out his shortcomings. This analysis seems to put the burden on the recipients of rebuke.

Elsewhere in the Gemara³⁰ the opinion is expressed that no one today (1500 years ago!) is capable of giving *tochacha* properly. Rashi explains that it must be "with respect, so as not to cause his [the recipient's] face to change." The Maharsha also notes that it is a rare art to discern which person is susceptible to reproof and who will be turned off by it. All this suggests that the failure of protest to make any discernible impact on the public arises from shortcomings of the protesters.

In the view of the Chazon Ish, the talmudic appraisal has a profound effect on normative Jewish law. Thus he writes,

...It is a mitzvah to love the wicked... because nowadays [all persons are considered] as if they have not yet received rebuke, since we do not know how to reprimand [properly] and therefore all sinners are considered to be like those who are coerced [into doing evil - i.e., they are not responsible for their actions].³¹

This benevolent view of the sinner is potentially a crucial element in determining the proper attitudes toward and

29. *Erechin* 16b.

30. *Bava Bathra* 16b.

31. *Chazon Ish, Yoreh Deah* 2:28. There has been much debate in rabbinic literature on how to deal with the non-observant. See Maharam Schick *O.H.* 303-313; *Binyan Zion* 2:23; *Melamed LeHo'il* 1:29; *Seridei Eish* 2:156; *Iggerot Moshe, Even Haezer* II 20 and *O.H.I.*, 33, *Yabia Omer* 6:14.

treatment of Jews who are deficient in their performance of mitzvot. We shall return to this topic more extensively later.

Making Things Worse

The *Sefer Chasidim* makes a very interesting and important comment about the performance of *tochacha*.³²

But if there is a person who, if chastised, will come to hate him, or if his intention is to make people angry, or if he is an evil-doer and will take revenge until he does worse things, then one should not chastise him.

This speaks most directly to the situation which prevails nowadays. There are many who fear that religious demonstrations to protest *chilul Shabbat* and other mitzvot not only do not convince anyone to observe these mitzvot but, perhaps far worse, arouse hatred and antagonism towards religious people and ultimately towards the religion itself.

Another mitzvah in the Torah, aside from *tochacha*, which might have bearing on this dilemma, is the admonition not to "set a stumbling block before the blind," i.e., not to do something which will cause another person to sin. This concept, *lifnei iver*, has obvious relevance to our question. Rabbi Shlomo Zalman Auerbach³³ rules that one should definitely offer food to a guest, even if it is known that he will not wash his hands before eating nor recite a blessing. This is not a case of "putting a stumbling block" because the intention is not to cause harm but rather to

32. *Sefer Chasidim* 413.

33. *Minchat Shlomo* 35:1. In his article noted earlier, R. Aaron Soloveichik cautions against acting in such a way as to cause heterodox Jews to dislike observant Jews. However, he has often spoken out against inviting a non-observant Jew to one's house for Shabbat if that guest will ride home afterwards, on Shabbat.

help the guest and prevent his transgressing a far greater sin – hating his fellow Jew (which he would certainly do if the religious Jew refused to serve him food.)

The Chazon Ish, however, is not willing to give such a blanket permit; although recognizing that failure to offer food to a guest carries much potential harm, he would permit it only if there is some doubt whether the man would fail to make a blessing. But if we are certain he will not, the Chazon Ish would not agree to offer him food, thereby causing him to sin.³⁴

The Mitzvah of *Tochacha*

Having briefly sketched the variables which need to be considered in implementing the biblical directive of chastising a sinner, let us turn now to a more intensive study of the halachic dicta defining the mitzvah, before we consider the avenues of behavior which the halacha seems to prescribe.

There is a biblical imperative for every Jew to reprimand his fellow Jew should he see him engaging in a religiously forbidden or undesirable activity. This is the mitzvah of *hocheach tochiach* (*Vayikra* 19:17).

From where [do we know] that if a person sees his friend doing something despicable he is required to chastise him? Because it says "You shall surely reprimand your fellow man." To what extent is reproof [required]? Rav says, "until he hits him;" Shmuel says "until he curses him." And Rav Yochanan says, "until he rejects him."³⁵

34. *Chazon Ish, Shevi'it* 12:9.

35. *Erechin* 16b. For a most interesting explanation of these

At this point, we run into some trouble, because the rabbinic explication of when, how, and to what extent a person is required to protest the actions of his fellow man is ambiguous. We find rabbinic guidelines which seem to contradict other rabbinic dicta, leaving considerable room for perplexity and speculation.

In Gemara *Shabbat* 54b we are told that whoever is in a position to prevent the members of his household from transgressing, and fails to do so, is punished for (the sins of) his household. Similarly, one who could prevent the people of his city from sinning and does not do so, is punished for their acts; and one who could stop "the whole world" and does not – is punished for all of them. Clearly, the implication is that one should speak up to stop others from doing the wrong thing.

The Gemara continues on the next page to relate a conversation between two rabbis, where the first directed his colleague, Rav Simon, to chastise the Exilarch (the "Prince of the Jews" in Babylon) about his conduct. But, countered Rav Simon, he won't listen to me! Nevertheless, the rabbi continued, you must reprimand him.

However, in *Beitzah* 30b, the Gemara seems to be of a different mind. There the Gemara notes that it is biblically mandated (*d'oraitha*) to extend the time of fasting on Yom Kippur, by adding some minutes before sunset prior to Yom Kippur and also adding some time after the sun sets at the end of Yom Kippur (this is technically known as *tosefet Yom Kippur*). Nevertheless, the rabbis note, many women continue to eat and drink before Yom Kippur until it actually becomes dark, which is clearly a violation. Yet the rabbis

opinions, see the Maharal, *N'tiv Hatochacha*, Chapter 2, and the *Magen Avraham* 608.

caution that one should not tell the women to stop eating earlier. "Leave the Jews alone; it is better that they sin mistakenly rather than sinning intentionally."³⁶

Again in *Yevamot* 65b, the Gemara echoes this sentiment by stating the famous principle: "Just as it is a mitzvah for a person to say something that will be listened to, so it is a mitzvah for a person not to say that which will not be listened to."

What then is the position of our rabbis in the Talmud – should one speak out against evil lest he bear the consequences of the sins of others, or should one keep silent when it seems evident that criticism will not be accepted? The dilemma is not resolved in the Talmud, and is reflected in conflicting directives of the *Rishonim* in the medieval era.

The Rosh,³⁷ citing the *Baal Halittur*, makes a distinction between laws which are explicitly written in the Torah and those which are only derivative or inferred. Only if something is specifically forbidden in the Torah, must one protest until the sinner ceases his violation. The *Shulchan Aruch*³⁸ formulates the law in accordance with this view.

The author of *Nimukei Yosef* draws the line elsewhere: He notes that the Gemara has indicated it is a mitzvah to chastise someone who accepts criticism, even a hundred times, but not to criticize someone who won't listen. How do we reconcile that with the rabbinic dictum that he should chastise – even someone who apparently is unwilling to

36. See the Ramo, *Yoreh Deah, Laws of Chadash; Sefer HaChassidim* 39 and 262, and the commentary thereto.

37. Rosh, *Beitzah* 30a

38. *Orach Chaim* 608.

listen – until he beats him? Here, the *Nimukei Yosef* makes the following distinction: In the first case, the Gemara is speaking about an individual; if he seems willing to accept rebuke, one should continue to rebuke him whenever he does wrong, up to the point where he beats the rebuker. However, it is different with a group; it is better to keep silent if it appears they will not listen.³⁹ This, too, is the law as formulated in the *Shulchan Aruch*.⁴⁰

As for the talmudic text wherein Rav Simon was exhorted to chastise the Exilarch, *Nimukei Yosef* explains that a leader, or a group, has to be chastised at least once, so that they would not be able to claim immunity on the grounds of ignorance of the halacha. Therefore, "it is necessary to reprimand him at least one time."⁴¹

The position of the *Nimukei Yosef* has direct application to the practice of certain *Haredim* in Israel who stage demonstrations and other public acts in order to protest open violation of Torah law. The thrust of his teaching seems to be that "it is better to remain silent if it appears they will not listen." To understand why they persist in their apparently futile efforts to prevent Sabbath-desecration and the like, we need to look further in the writings of *Rishonim* who express

39. But the *Shulchan Aruch Harav* 608, no. 5, interprets the text about a group a bit differently: He says the Gemara holds that one should in all cases rebuke an individual who is sinning, until he beats the rebuker. However, one must be careful not to rebuke him in front of a group, but only privately.

40. *Orach Chaim* 608.

41. *Ibid.* See also the *Ran* there, who adds that if a person knows his protest will have no effect, he should not reprove a public figure more than once in front of others; however, one is required to protest a private individual's sinful actions until he beats or curses him.

a somewhat different understanding.

For a possible answer, we can turn to the commentary of *Akedat Yitzchak*,⁴² who makes the following distinction: When an individual sins privately, the aforementioned rules of *tochacha* apply – if he is not going to listen, we do not rebuke him. However, this cannot be the case when an entire group, or society, commonly commits a transgression, even if it be a minor one. It may even have reached the point where the mistake is so established that no one even bothers to point out that it is wrong. In that case, writes the *Akedat Yitzchak*, it is absolutely essential to mount a public protest, even if no one listens, but at least one does not allow a mitzvah of the Torah to be totally discarded, as if it did not exist.

It seems that at a certain point, it ceases to be a question of whether or not to give reproof, and becomes instead a threat to the continued existence of a biblical command. Then, the major concern need not be the fate of the sinners (better that they sin mistakenly rather than intentionally...) but has to be the continued viability of the Torah as an irreducible entity. Thus, the rules of *tochacha* would be suspended, and the issue of preserving the Torah would come to the forefront.

On the other hand, there are many eminent *Rishonim* who take a notably different attitude. The *Mordechai*⁴³ differentiates between a sin which people have become so accustomed to committing that they believe it to be a permissible action, and one that arises from an honest error. In the former case, the dictum of the Gemara applies, that "it is better for them to sin mistakenly rather than to sin

42. *Parshat Vayera, Sha'ar Ha'asarim*, and also *Sefer Chasidim*, 262, no. 5.

43. *Beitzah* 30a.

intentionally." In other words, if people are brought up in a certain way so that they believe that what they are doing is right, even if actually it is wrong, there is no point in rebuking them about it because they are not going to change, seeing as they believe their action to be a permissible tradition.

However, if people are sinning due to ignorance,⁴⁴ it is proper to tell them so, in order to guide them on the proper path, "for perhaps they will listen, since [their sinful action] is not a tradition they received from their parents." For him, the distinction arises from the attitude of the sinner. If people sin because they don't know something is *assur*, we must tell them it is wrong. Even if they sin deliberately, we have the mitzvah of *tochacha*, reproof. The only time one should not criticize the actions of people is when they act out of a conviction that their behavior is acceptable, since that is the tradition they were brought up with.

The Rosh, also, distinguishes between a sin which is committed out of ignorance that the act is forbidden, and a sin which is specifically mentioned in the Torah. We apply the principle "better that they should sin mistakenly rather than intentionally" except in a case where the action is specifically forbidden by the Torah. In that case, one must protest, regardless.⁴⁵

Tosafot, however, do not equivocate on the matter:⁴⁶ They contend that a person should continue to be reprimanded only if there is some possibility that he will accept the rebuke. But if one is sure that he will not accept, it is better to remain silent, for it is preferable that they sin mistakenly rather than sinning intentionally...

44. See *Rabbenu Bachaya, parshat Shemot*.

45. Rosh and Ran, *Beitzah* 30a.

46. Tosafot, *Shabbat* 55a, *Bava Bathra* 60, and *Avoda Zara* 4a.

To summarize: the majority of rabbinic opinions appears to consider rebuke mandated if it will effect some improvement in the sinful behavior of individuals. If there seems to be no chance that the rebuke will be effective, or perhaps might even be counter-effective, the majority would counsel silence. However, there is a minority view which sees *tochacha* as necessary in order to remind the public what the Torah view is, and that it has not been cancelled due to neglect. Here the objective is *kavod haTorah*, the honor of the Torah, not necessarily the repentance of the sinner.

Who Should be Rebuked?

Another factor which limits the scope of the mitzvah of *tochacha* may be the personality of the sinner. It is the view of the *Aruch Hashulchan*⁴⁷ that the entire concept of chastisement pertains only "to a Jew who believes [in the Torah] but whose "yetzer" (evil inclination) gets the best of him." Such a person might repent when he is rebuked for his behavior. But one who rejects the words of our Sages – there is no point in rebuking him, for he is a heretic, and one should not enter into debate with such a person. The *Biur Halacha* agrees with this assessment, following the reasoning of many earlier authorities.⁴⁸

47. 608, no. 7. This question is a source of much controversy between the *poskim*. See *Schach, Yoreh Deah 157*; *Dagul Merevavah*, there; and *She'elot Uteshuvot Divrei Yoel, Orach Chaim 59*, which discusses the question of building a mikvah in a non-religious community. Many of the sources we have cited are discussed therein.

48. See, for example, the Meiri and the *S'mag*, who opine that if a person sins deliberately, one is not required to reprimand him.

When the Lubavitch movement began a campaign to have all Jewish men don *tefillin*, the Satmar Rebbe objected, in a pamphlet entitled *Al Hageulah ve'al Hatemurah*. In his response, the

However, this is not the view of the *S'mak*, who rules that even if a person sins intentionally, and not out of ignorance or lust, it is necessary to protest his action. In arriving at a definitive answer, the Ramo rules in accordance with the opinion of the Ran that in the case of an intentional sin, it is still necessary to protest at least once when a group is involved; as for an individual, one should rebuke him over and over.

Writing more than 600 years ago, the Ritva concluded that exemptions from the mitzvah of *tochacha* could be justified "in the old days," when all people were basically committed to Jewish law. However, in his generation, he felt that people were already so lax in their observance of Torah standards that it was always necessary to make a public protest, in order to keep people aware of what is really right.

Certainly this is a principle which is operative today. For many people, protest represents not primarily an attempt to change the attitudes and behavior of the multitudes who have abandoned a Torah lifestyle but rather a determination that, at the very least, one must voice some opposition to the wholesale disregard of our heritage. Most protesters recognize that their demonstrations might not have an immediate impact; nevertheless, they believe that it is their responsibility not to allow Torah values to be consigned to oblivion in the public mind.

This sense of the futility of *tochacha* to effect a change in the behavior of sinners is already evident more than a century ago in the writings of the *K'tav Sofer*:⁴⁹

Lubavitcher Rebbe alludes to many of the questions mentioned above to defend his undertaking (*Sichot Shabbat, Parshat Bereishit, 5728*).

49. Responsa *K'tav Sofer, Even Ha'Ezer 47*.

But all this [*tochacha*] can be only at a time when scholars are respected by the people, who recognize their value, and [who sin] only because their evil inclination prevailed upon them to transgress the mitzvot of *Hashem*. In this case, there is hope that [they will repent]....But if they deride the sages who follow in the light of the Torah, and turn light into darkness, then [these people] will also have contempt for them and certainly will not accept their words...

The Chazon Ish, too, took cognizance of the changed attitude of the multitude of Jews and gave serious thought to how to relate to them. Living only one generation ago, the Chazon Ish's evaluation of the situation is of particular immediacy for our own troubled times; perhaps his approach will prove to be the most helpful in helping bridge the gap between observant and non-observant Jews.

As far as the Chazon Ish was concerned, non-observant, even non-believing Jews today should not be categorized as "wicked", i.e., as deliberate sinners. He opined that all teachings in the Talmud and later rabbinic writings about wicked or heretical Jews must not be applied to wayward Jews in our own day, because *nowadays we do not know how to give tochacha properly*. Thus, people who sin do so because they are not truly aware of the enormity of their transgression. Lacking understanding of the Torah and its values, they are comparable to lost and ignorant Jews, not evil ones.

Because in our time, it is [as if] they have not yet been rebuked, for we do not know how to give reproof [properly].⁵⁰

50. Chazon Ish, *Yoreh Deah* 2:28. See also, *Hagahot Maimuniyot*, *Hilchot Deot* 6:3; *Chinuch* 238; *Tanya*, chapter 32.

Chilul Shabbat

An article appeared in *Techumin*⁵¹ contending that it is wrong to throw stones at Sabbath-desecrators, because that in itself causes further violation of the Sabbath when the police respond to the hullabaloo, with cars racing through the streets and sirens blaring. He draws an analogy between the Sabbath demonstrators and a case discussed by R. Moshe Feinstein.⁵² Rav Moshe was asked if one may invite guests to a Bar Mitzvah on Shabbat, if the guest will have to ride to get there. Rav Moshe forbade such an invitation, which he saw as *hasata*, inciting a person to sin. Similarly, argues the article in *Techumin*, demonstrators create situations which engender more *chilul Shabbat*.⁵³

Another rabbinic responsum cited to convince demonstrators that they are wrong to instigate a riot on Shabbat is one penned by R. Tzvi Pesach Frank. The question was whether an Israeli religious agricultural settlement may jointly purchase a large wheat thresher together with a non-religious settlement. Neither of them qualified for such a

51. *Techumin* 7, p. 112.

52. *Iggerot Moshe, Orach Chaim*, 99.

53. In *Techumin* 2, p.66, the author deals extensively with the question if the police in Israel are actually violating the Sabbath when they respond to a riot. Is it *chilul Shabbat* to stop people from hurting one another? The Ran to Gemara *Shabbat* 42 permits removal of a burning object from the public domain because "damage for many people is *pikuach nefesh*." In *Orach Chaim* 334 we find the rule that serving the public is not *chilul Shabbat*. The author also discusses the use of microphones and writing materials.

Others who deal with the vital issue of employing a police department in Israel on Shabbat include Rav Herzog, *Hatorah Vehamedinah*, 5-6, pp. 25-33; Rav Eliezer Waldenberg, as brought in *Sinai*, 22, pp. 155-178; and *Tzitz Eliezer* 4, pp.14-22; also R. Saul Yisraeli and R. Y. Levin.

purchase individually, since the government would only sell a combine to a large group. However, the two groups would split it so that the religious ones could use it during the week, and the others would use it also on Shabbat. Rav Frank forbade such an arrangement, which would have had the effect of encouraging the non-religious group to work on Shabbat in order to meet their needs.⁵⁴

The real question is whether someone has to modify his behavior in order not to cause someone else to sin.⁵⁵ According to the sources mentioned above, it would seem that a person does indeed have to take into account that his protest might cause *chilul Shabbat*. However, this is not at all the conclusion of Maharil Diskin⁵⁶ who finds no reason

54. *Har Tzvi, Orach Chaim* 125. The author of the *Techumin* article wonders why it should be forbidden, since the *chilul Shabbat* is not certain. However, a careful reading of the responsum shows that Rav Frank was well aware of this, yet added succinctly, "but in this non-religious *moshav*, they desecrate the Sabbath openly and are accustomed to do all kinds of work on Shabbat; thus it is difficult to contend that there exists a true doubt" as to whether or not they would use the combine.

55. The *Mishnah Berurah* 329:16 does make such a suggestion—if the victim of a holdup gives the robber what he wants, there would be no *chilul Shabbat*. However, the *Mishnah Berurah* is not suggesting that a person forego his property in order to save the thief from *chilul Shabbat* but rather to save the *victim* from *chilul Shabbat*. If he gives up the money, there will be no problem; the *Mishnah Berurah* considers this as a viable option.

56. *Kuntress Acharon* 145, based on the talmudic text at the beginning of *Ketubot*. The *Sedei Chemed* II, 56, note 7, seems to be saying the same thing. It is possible to find a precedent for this line of reasoning in the *Ritva, Avoda Zara* 63, who says that, while it is *assur* to give a person a forbidden object (such as non-kosher meat) to enable him to sin, it is *not* forbidden to give him money with which he can go out and buy non-kosher food. Also, *Seridei Eish* II, 56, rules that it is permissible to hand a

why a person should not go ahead with living his life the way he feels is right, and if others choose to violate the law in response – that is not his concern. Nor can it be considered a violation of the prohibition of "setting a stumbling block" and causing others to sin.⁵⁷

Our brief survey indicates that for most rabbinic decisors, the mitzvah of *tochacha* is goal oriented – its primary purpose is to effect a positive change in the behavior of an errant Jew. However, a significant number of authorities also consider it highly necessary, not only for the immediate observer but even more for the Jewish people as a whole, that the eternal truths of our Torah not be forgotten nor be trampled upon without at least some demurrer. Particularly when a large group embarks on a course of action contrary to Torah law, there is a need to speak out – even if futilely – against such transgression of our national mission.

writing pad to a doctor on Shabbat, even though it is clear that he will use it to write on Shabbat. He also permits someone to rent rooms to a person despite knowing that the tenant will use the rooms to give haircuts on Shabbat (no. 184). The *Binyan Zion* 16, allowed an author to give his manuscripts to a printer, even though Jews will typeset the book on Shabbat. For further instances, see Responsa *Yeshuot Moshe* 3:32.

57. This ruling was challenged—the halacha is that a parent is not permitted to strike his mature child, even though it is a parent's mitzvah to train his child, for fear that the child may hit him back—an action which warrants the death penalty in Jewish law. The parent is not permitted to act in a way to make it likely the child will do this terrible sin. Yet Rav Diskin counters that that is because when a parent is trying to help a child, he is not permitted to cause harm.

Nevertheless, the *Sedei Chemed* (*ma'aracha lifnei iver*) cites several texts to counter this argument. The Maharsha in *Moed Katan* asks the same question.

Someone must tell the world that there are still Jews who respect and revere God's word as the living constitution for our lives. Someone must take pride in our heritage and cry out in pain when it is thrown aside. Moral outrage must be expressed so that, at a minimum, our children will know that it is wrong to violate the dictates of the Torah.⁵⁸ And if all else fails, at least our protest shows that we should not be held accountable for the sins of our fellowmen which we were unable to prevent.

Tochacha can be an important tool in bringing our diverse co-religionists together, but rebuke is most desirable if it is effective, if it succeeds in awakening people to an awareness of their destiny and responsibilities under the Torah. We can learn how best to implement this from the teachings of the *Tanya*, who quotes Hillel to the effect that in seeking to bring people back to our tradition, "it is necessary to draw them with thick coils of love..."⁵⁹

The Chazon Ish counsels not giving rebuke if it will not be effective; yet he does not want people not to react when they see evil practices. Rather,

Since our entire being [seeks] to fix [the transgressions], the law [of *tochacha*] does not apply at a time when it does not effect an improvement. Therefore, we must bring them back [to doing good] with ropes of love..⁶⁰

In reviewing the multiple variables which have to be factored into the decision whether or not to chastise evildoers, whether or not to react to public disregard of mitzvot, we

58. See *Chochmat Shlomo, Orach Chaim* 608.

59. *Tanya*, chapter 32.

60. *Hilchot Shechita* 2:16. See also essay by Rav Kook, *Mecha'ah neged Chilul Shabbat Vechag* part II, p. 451, and *Techumin* 7, p.116.

see that there is a broad spectrum of rabbinic opinion. Some counsel strong, even violent protest, while others caution that such action might engender hostility. What seems quite clear is that no one sanctions *ignoring* the mitzvah of *tochacha*. The question is rather, what is the best method to use in order to return our brethren to observance of mitzvot. But nowhere is there an excuse for failure to react to transgression. There is justification, perhaps, for strong protest (although that is the view of a very small minority), but there is an even stronger mandate for intensive and continued outreach to our fellow Jews. What is undeniable, however, is that we may not choose to do nothing, to act as if wholesale desecration of Torah values warrants no response.