

# We too are witnesses

Dvar on Parshat Shelach Lecha

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Early in the pandemic, I renewed contact with an old acquaintance – a former competitor - who authored a scientific paper in 1989 demonstrating the feasibility of making an mRNA vaccine. After a few emails back and forth, we lost contact.

Several months later, I was surprised to see a feature article that described him as one of the most prominent sources of misinformation about vaccines and other measures to mitigate against COVID. To make matters worse, his work in the 1980s appeared to give him more credibility than other critics, which made his misinformation particularly harmful. I couldn't help thinking about this when reading today's Parsha.

Today's parsha is Shelach Lecha, the story of the scouts who were sent ahead into Canaan in anticipation that the people of Israel would soon proceed into their promised land. The outlines of the story are familiar. God commands Moses to send one leader from each of the tribes of Israel as scouts into the land of Israel to see "what kind of country it is," "whether the people were strong or weak, few or many," whether the country was good or bad," whether the towns were "open or fortified," whether the soil "rich or poor," and whether it was "wooded." The scouts returned 40 days later and reported that the land was "indeed flowing with milk and honey," that the people were strong, and that their cities were fortified.

But then the scouts, except for Caleb and presumably Joshua, engaged in what Torah describes as “dibbat” a word translated as “lies” or “calumnies,” and used elsewhere in Tanakh to mean “an evil report,” “defamation,” “slander,” or “whispering.”

Reading the parsha in this time of COVID, I couldn’t help translating “dibbat” as “misinformation.”

The results of this dibbat, as most of you know, were calamitous. Torah tells us that “the whole community broke into loud cries,” “the people wept,” and they “railed against Moses and Aaron” saying “if only we had died in the land of Egypt” and shouting “It would be better for us to go back to Egypt!” Torah tells us that the “whole community threatened to pelt them with stones...”and that they agitated for a new leader, someone who would lead them back to Egypt, back to slavery, and back to idolatry.

In response, God threatens “I will strike them with pestilence, ...” and - even after Moses’ prayers and arguments for forgiveness were pardoned – each of the scouts, except for Caleb and Joshua, died of the plague, and none of those assembled that day were allowed to enter the promised land.

What is this story really about? What sin did the scouts commit? And why was their sin more grievous and more unforgivable than the golden calf and the myriad other apostacies we have been reading almost weekly since the Exodus?

On the surface, it is not clear. The scout’s reports are certainly colorful. They describe the land as “devouring” people. They describe some of the people as being Niphilim – descendants of the giant Arak - and relate that these people had such great stature that the scouts felt like “grasshoppers.” They also related the presence of various tribes, including Amalakites, a long-feared enemy. Yet, allowing for some hyperbole, none of what the scouts reported was obviously untrue; the people were strong, their cities were fortified, and the land was good.

The scouts went on to say that “we cannot attack that people, for it is stronger than we,” and much of the commentary on the parsha relates to their lack of faith that God would fulfil the

promise of the land. Yet, even this expression of doubt seems unremarkable in the context of other episodes in which the people of Israel expressed doubt about God's providence in their journey from Mitzrayim, but were not subject to the same punishment.

So what made the scout's report "dibbat?" Why was it so consequential?

Rashi, in his commentaries on this parsha, noted that these events follow immediately from the story of Miriam and Aaron speaking against Moses and her subsequent punishment, and he sees parallels between the words of Miriam and Aaron and the "dibbat" of the scouts.

In case you forgot last week's news, Miriam and Aaron "spoke against Moses" by gossip talking about his marriage to a Cushite – presumably a black, Ethiopian, woman – and asking "Has God spoken only through Moses? Has he not spoken through us as well?"

God immediately corrects this misinformation, telling them that "When a prophet arises among you, I make myself known to him in a vision.... Not so with the servant Moses, ... with him I speak mouth to mouth." In this context, in speaking against Moses, Miriam and Aaron were speaking against the words that God had put in his mouth – the words of the commandments, the law, and the system of religious and social order that we recognize as Torah. In this context too, innuendo about Moses having married an outsider, a Cushite, was not simply idle gossip, but became a public challenge to Moses' standing as the leader of Israel and his authority as the mouthpiece for the word of God.

To be fair – and to avoid promulgating misinformation myself – Rashi stopped short of representing either the sin of Miriam and Aaron or the sin of the scouts as a deliberate challenge to Moses or the law. Rashi writes "She did not intend to speak negatively about him...but was being preoccupied with speech." So to, he gives credence to the scout's concerns about Israel's ability to conquer the land. Rashi argues that while the words themselves did not constitute a sin, Miriam, Aaron, and the scouts sinned by airing these concerns in public rather than expressing them privately to Moses.

So, why was it dibbat to speak publicly about these matters?

Reaching beyond our Torah, perspective on this question can be found in the famous 1919 legal opinion by Oliver Wendel Holmes on freedom of speech. In that opinion, he wrote: “Words which, ordinarily ... would be within the freedom of speech protected by the First Amendment may become subject to prohibition when of such a nature and used in such circumstances as to create a clear and present danger that they will bring about the substantive evils which Congress has a right to prevent. The character of every act depends upon the circumstances in which it is done.” He ruled that, even speech that might normally be in accordance with the law, could be judged illegal if it was likely to cause substantive evil or harm.

This concept seems to parallel Rashi’s commentary on today’s parsha.

Rashi seems to suggest that, had the concerns of Miriam, Aaron, and the scouts been expressed privately to Moses and Aaron, they could have led to responsa that strengthened the law and the people of Israel. Instead, by voicing these concerns publicly, they evoked an incendiary populist response and fueled insurrection. The people threatened to throw stones at Moses, to appoint a new leader; to overturn the social order ordained in Torah; to take the nation back to Mitzrayim, back to slavery, and back to idolatry and everything that the term “idolatry” implies in our tradition. As such, their words were dibbat– “an evil report,” “defamation,” “slander,” “whispering,” or calumny.

We are in the midst of a great debate in our society about when information or misinformation becomes dibbat. College campuses and schools are consumed with trying to simultaneously promulgate the free exchange and critique of ideas while also protecting our students from harm and our institutions from conflagration. We are deluged with information and misinformation in social and mainstream media about the pandemic, race, gender, immigration, and current affairs, and we have seen how it can ignite public opinion and threaten our social order to the point that people start throwing stones.

Rashi argues that the sin of the scouts was particularly egregious because they should have learned their lesson from witnessing Miriam’s punishment in last week’s parsha. Today’s parsha puts us on notice that we too are witnesses. We too know the consequences of dibbat. We too

have seen the punishment. We too have seen the path that takes us forward to the promised land and know the path that takes us back.

Today, I pray that that we learn from today's parsha and choose the path that takes us forward as one nation, one people, and in peace.

Shabbat shalom.