

Not My Problem!?: Jewish Transgressors and the Limits of Communal Responsibility

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This is a story about two brothers. The Segal family of Yerushalaim was a fairly typical Religious Zionist family in Mandatory Jerusalem. Their sons were educated at the Yeshiva High School called Chorev, still one of the elite religious Zionist boys schools in Jerusalem. On Saturday mornings, the day was spent observing Shabbat, but on Saturday nights, the parents would go to view documentaries at the major theaters of the time, the Eden or Edison. After two years in High School, the older son, Don, left Chorev and dedicated himself completely to Torah study at the prestigious Kol Torah Yeshiva in Yerushalaim, and then the illustrious Ponevezh Yeshiva in Bnei Brak. While he was there, he became a close disciple of many of the leading Rabbinic figures of the day: Rav Yechezkel Levinstein, the mashgiach of the Ponevezh Yeshiva, Rav Shmuel Rozovsky, the Rosh Yeshivah, Rav Yaakov Yisroel Kanievsky, the Steipler Gaon, and Rav Shlomo Zalman Auerbach, the great *posek* and revered Rosh Yeshiva of the Kol Torah

Yeshiva. Don's transition to the chareidi world, and his immersion in it, paved the way for his younger brother, Yisrael, to do the same, and Yisrael became renowned in the Ponevezh Yeshiva for his outstanding intellect, clearheaded logical thinking and broad knowledge base. Don Segal began to ascend the ladder of leadership in his adopted world, and soon was named a member of the faculty at the yeshiva in the Moshav of Tifrach, in the Negev. Shortly thereafter, he was named the spiritual guide, the Mashgiach, at the Yeshiva. Even in the regimented and severe world of Israeli chareidi Yeshivot, the Yeshiva in Tifrach is renowned for its austerity both in the personal conduct of its students and the authoritarian manner in which the Yeshiva is administered. Don- now HaRav Don- was later named as well to serve as Mashgiach in the Mir Yeshiva in Brooklyn and, eventually, drew a significant following both in America and Israel beyond the confines of an affiliation with a particular Yeshiva. HaRav Don was now known colloquially as "*Hamashgiach*"- **the** Mashgiach of all Yeshivot, and began to be the stuff of legends, many of them true. For example, he became known for his ascetic lifestyle and abstemious personal habits; Rav Don is known to refrain from any speech, save for words of Torah, between Rosh Chodesh Elul and Yom Kippur, and he also eats very little at all times. His intense and lengthy prayer services, at which he occasionally dances at his place and for which he has composed numerous melodies, draw participants from far and wide. He has drawn fame and ire for his fiery and uncompromising anti Zionism, of a vehemence that rivals that of the most strident Satmar broadsides.

Yisrael Segal followed his brother to the Ponevezh Yeshiva, but despite his giftedness in Talmudic studies, he left Ponevezh at the age of 20 and, with that, his religious observance. As

his brother ascended the ranks and reached the upper echelons of the Lithuanian Yeshiva world, Yisrael also began to rise in his chosen profession of journalism, first in the world of newspapers and then transitioning to the Israel Broadcasting Authority, where he became a legendary producer. He was especially respected for his stories about the religious/secular divide, covered from the critical lens he trained on his former community. He was also an acclaimed novelist, who wrote books for children and adults; In his thinly veiled autobiographical novel, Yisrael Segal portrayed the estranged chareidi brother of the protagonist as a cold, unfeeling character whose religious rigidity trumped any human feeling.

It should be pointed out at this time that this case is clearly an extreme. In many families, differing levels of observance are not a barrier to meaningful interaction; the Segal family was not one of those families. Estranged for years, these tensions between the two brothers came to the forefront in 2007, when Yisrael Segal died on Chol Hamoed Sukkos from injuries sustained after he experienced a heart attack while driving some days earlier. Rav Don Segal turned to the most revered Halachic authority in Israel at the time, Rav Yosef Shalom Elyashiv of blessed memory, and asked him whether he was obligated to sit Shiva for his brother. In Rav Elyashiv's view, Yisrael Segal was a *shana upiresh*, someone who had studied Torah and then left the path of observance, and consequently, no shiva was to be observed.

Rav Elyashiv's ruling seems extremely harsh, and raises many of the questions I'd like to address today. Is it appropriate to adopt a "live and let live" attitude about our fellow Jews, and

to what degree are we responsible for their sinful behavior? Is it our job to save the souls of those who have no interest in salvation? It is this that I'd like to discuss with you this afternoon.

Areivus

The reason Rav Elyashiv's ruling sounds so harsh is that it appears to fly in the face of many of the Torah values we hold dear. There is a statement in Chazal, in Tractate Shevuot, that best articulates why Rav Elyashiv's ruling seems to rankle:

תלמוד בבלי מסכת שבועות דף לט עמוד א- דף לט עמוד ב

וכל עבירות שבתורה מכל העולם לא? והכתיב: וכשלו איש באחיו - איש בעון אחיו, מלמד שכל ישראל ערבים זה בזה
התם שיש בידם למחות ולא מיחו

And for all transgressions of the Torah is not the whole world punished? Lo, it is written (Vayikra 26:37), men will stumble upon their brothers: one because of the iniquity of the other; this teaches us that all Israel are sureties one for another! There [they are punished], because it was in their power to prevent [the sin], and they did not prevent it.

This is the source of that famous principle we have heard so many times. Jews are responsible for one another; we are guarantors of each other's souls. Often, it is used as a platitude, stripped of its actual meaning. Of course, that isn't what it really is. What it really means is the mechanism by which one person can perform a mitzvah and discharge the obligation of another. This happens each week in countless Jewish homes, when one person makes kiddush and discharges the obligation of all assembled. The Talmud in Tractate Rosh Hashanah explains why this is the case.

תלמוד בבלי מסכת ראש השנה דף כט עמוד א- דף כט עמוד ב

תני אהבה בריה דרבי זירא: כל הברכות כולן, אף על פי שיצא - מוציא, חוץ מברכת הלחם וברכת היין, שאם לא יצא - מוציא, ואם יצא - אינו מוציא. בעי רבא ברכת הלחם של מצה, וברכת היין של קידוש היום, מהו? כיון דחובה הוא - מפיק, או דלמא ברכה לאו חובה היא? תא שמע: דאמר רב אשי: כי הוינן בי רב פפי הוה מקדש לן, וכי הוה אתי אריסיה מדברא הוה מקדש להו. תנו רבנן: לא יפרוס אדם פרוסה לאורחין אלא אם כן אוכל עמהם. אבל פורס הוא לבניו ולבני ביתו, כדי לחנכן במצות. ובהלל ובמגילה, אף על פי שיצא - מוציא.

Ahabah the son of R. Zera learnt: Any blessing which one has already recited on behalf of himself, he can recite again on behalf of others, save the blessing over bread and the blessing over wine. These if he has not yet recited on behalf of himself he may recite on behalf of others, but if he has already recited them for himself he cannot recite them on behalf of others.

Raba inquired: What is the rule with regard to the blessing for bread said over the matzah and the blessing for wine said in the sanctification? Do we say that since [the partaking of these] is obligatory, he can perform [the duty] for others, or have we here perhaps only an [optional] blessing, not an obligation? — Come and hear, since R. Ashi said: When we were at the house of R. Papi, he used to say the sanctification for us, and when his tenants came from the fields he used to make the sanctification for them. Our Rabbis taught: A man should not break bread for visitors unless he eats with them, but he may break bread for his children and the members of his household so as to train them in the performance of religious duties. In the reciting of [the blessing over] Hallel and the Megillah, even though he has already performed [the duty] for himself, he may perform it for others.]

In other words, for a *mitzvah*, a person can discharge the obligation of another by reciting the blessing, but for a *birchat hanehenin*, for a blessing upon partaking of food, one cannot. That is to say, if I make a *Borei Pri Hagafen* on a glass of wine on Friday night, I fulfill everyone's obligation. However, if I take the same glass on a Tuesday, I cannot. Why?

רש"י מסכת ראש השנה דף כט עמוד א

אף על פי שיצא מוציא - שהרי כל ישראל ערבין זה בזה למצות.

חוץ מברכת הלהם והיין - ושאר ברכת פירות וריחני, שאינן חובה אלא שאסור ליהנות מן העולם הזה בלא ברכה, ובזו - אין כאן ערבות, שאינו חובה על האדם; לא ליתנהי ולא ליבריך

Every Jew is responsible for the *mitzvah* performance of another Jew, which is why one can discharge the obligations of another through the recitation of a preliminary blessing over the performance of a Mitzvah- like Kiddush, Megillah and Shofar blowing, and then performing that *mitzvah*. However, blessings over food and the like are not analogous. There aren't many times when there is an obligation to eat, and certainly not that many times when there is an obligation to eat specific foods. However, there is *always* a prohibition to partake of food *without* making a blessing. Blessings before food are a *mattir*, a form of permission, and while it certainly is a *mitzvah* to make that blessing, it is not the same thing.

The Rambam

The ethos outlined by this Gemara, the one we have so thoroughly internalized, stands in stark contrast to a disturbing passage in the Rambam.

רמב"ם הלכות אבל פרק א הלכה י

כל הפורשין מדרכי צבור והם האנשים שפרקו עול המצות מעל צוארן ואין נכללין בכלל ישראל בעשיית המצות ובכבוד המועדות וישיבת בתי כנסיות ובתי מדרשות אלא הרי הן כבני חורין לעצמן [כשאר האומות] וכן האפיקורוסין [והמומרים] והמוסרין כל אלו אין מתאבלין עליהן, אלא אחיהם ושאר קרוביהם לובשין לבנים ומתעטפים לבנים ואוכלים ושותים ושחחים שהרי אבדו שונאיו של הקדוש ברוך הוא, ועליהם הכתוב אומר הלא משנאיך ה' אשנא.

We do not conduct mourning rites for all those who deviate from the path of the community, i.e., people who throw off the yoke of the mitzvot from their necks and do not join together with the Jewish people in the observance of the mitzvot, the honoring of the festivals, or the attendance of synagogues and houses of study. Instead, they are like free and independent people like the other nations. Similarly, we do not mourn for heretics, apostates, and people who inform on Jews to the gentiles. Instead, their brothers and their other relatives wear white clothes, robe themselves in white, eat, drink, and celebrate for the enemies of the Holy One, blessed be He, have perished. Concerning them, Psalms 139:21 states: "Those who hate You, O God, will I hate."

This is a source for or a reference to the practice of wearing black at funerals, and it is likely this Rambam that Rav Elyashiv had in mind when formulating his ruling for Rav Don Segal about his brother. For us, though, this Rambam probably sounds deeply problematic, even offensive. Is this the way we talk about or relate to fellow Jews? Furthermore, if a Jew has left the path and has separated themselves from the community, shouldn't our mutual responsibility foster an *intensification* of mourning, if only as an expression of *areivus*- mutual responsibility? Before we become too righteously indignant, we should note that the Rambam has ample basis for his assertion. There are several instances we find in the literature of Chazal where we actually encourage further sin on the part of certain kinds of transgressors, or, at the very least, we remove any safeguards against it. There is a Mishnah in Tractate Demai, the tractate that deals with the laws governing produce about whose tithing there is uncertainty. The Mishnah tells us that when a traveler who is careful about tithing produce brings some to an innkeeper to prepare for him, he should tithe both when he gives her the produce (because there is doubt as to whether

the produce has been tithed) and when he receives it back (because she is not to be trusted and might have switched his produce with untithed produce). Rabbi Yossi, however, says that we are not concerned about liars and thieves, and he only has to tithe what he receives from her.

משנה מסכת דמאי פרק ג משנה ה

הנותן לפונדקית מעשר את שהוא נותן לה ואת שהוא נוטל ממנה מפני שחשודה לחלוף אמר רבי יוסי אין אנו אחראין לרמאין אינו מעשר אלא מה שהוא נוטל ממנה בלבד:

Mishnah Demai 3

One who gives [his tithed produce] to an innkeeper [so that she can prepare it for him] must tithe from what he gives to her and from what he receives [back] from her because she is suspected of exchanging [her Demai for his tithed produce]. Said Rabbi Yossi, "We are not responsible for deceivers; he does not tithe except for what he receives from her exclusively."

In other words, those who are lying and deceitful are responsible for their own behavior, and we don't need to modify our practices to adjust for their shortcomings. In a similar vein, there is a *halacha* regarding fruit from vines. In the times of the Beis Hamikdash, during the first four years after planting of a tree, one was prohibited from partaking of produce that grew on vines, and in the fourth year, the produce was redeemed for its monetary value or taken to Yerushalaim, whereupon it had to be eaten in a state of ritual purity. This is known as "Orlah." The Mishnah tells us that fruits that are younger than four years old are demarcated with shards of clay, as graves are with lime (or headstones). This way, people taking produce from the field won't accidentally take prohibited produce, like Orlah. Rabban Shimon ben Gamliel says this applies during the Shemittah year, when people who are scrupulous in their observance of Mitzvot

would lay down a coin as a preemptive measure of redemption for the produce, all of which was ownerless and free for the taking. Consequently, any fruit gathered in that yard from that vine would be redeemed by that coin.

משנה מסכת מעשר שני פרק ה משנה א

כרם רבעי מציינין אותו בקוזוות אדמה ושל ערלה בחרסית ושל קברות בסיד וממחה ושופך אמר רבן שמעון בן גמליאל במה דברים אמורים בשביעית והצנועים מניחין את המעות ואומרים כל הנלקט מזה יהא מחולל על המעות האלו:

Kerem Revai [the fruit of vines and trees in the fourth year after their planting. This produce, or its redemption value, must be taken up to Jerusalem and consumed there in ritual purity.], they mark it with clods of earth, and Orlah [fruits in the first three years after their planting, which may not be eaten] with pottery clay, and graves with lime, which he dissolves and pours. Rabban Shimon ben Gamaliel said: When does this apply? In the Sabbatical year. The conscientious put down coins and say: Any fruit gathered from this [vineyard] will be made into Chulin [non-sacred produce, by transferring their sacredness] to these coins.

תלמוד בבלי מסכת בבא קמא סט א

ותנן כרם רבעי היו מציינין אותו בקוזוות אדמה סימנא כי אדמה מה אדמה איכא הנאה מינה אף האי נמי כי מפרקא שרי לאיתנוי מינה ושל ערלה בחרסית סימנא בחרסית מה חרסית שאין הנאה מינה אף האי דלית ביה הנאה מיניה ושל קברות בסיד סימנא דחיוור כעצמות וממחה ושופך כי היכי דניחזור טפי אמר רבן שמעון בן גמליאל בד"א בשביעית דהפקר נינהו אבל בשאר שני שבוע הלעיטהו לרשע וימות

The Talmud in Bava Kamma has a different, more expanded version of Rabban Shimon ben Gamliel's view. The dispensation of leaving a coin there upon which to redeem the produce only applies during the Shemitta year. What about the other six? The Talmud adds another three

words: feed it to a wicked person, and he will die. In other words, we are not concerned about the sins of thieves- if they choose to sin, it is entirely their problem and no longer our concern. The Yerushalmi connects these two sources with a general principle.

תלמוד ירושלמי (וילנא) מסכת מעשר שני פרק ה הלכה א

[דף כח עמוד א] מתני' כרם רבעי מציינים אותו בקזוזות של אדמה ושל ערלה בחרסית ושל קברות בסיד וממחה ושופך. אמר רבן שמעון בן גמליאל במה דברים אמורים בשביעית [אבל בשאר שני שבוע הלעיטהו לרשע וימות]. והצנועין מניחין את המעות ואומר כל הנלקט מזה מחולל על המעות האלו

רבי יוסי ורשב"ג אמרו דבר אחד. כמה דרבי יוסי אמר אין אנו אחראין לרמאין כן רבן שמעון בן גמליאל אומר אין אנו אחראין לרמאין. מסתברא רבי יוסי יודי לרבן שמעון בן גמליאל רבן שמעון בן גמליאל לא יודי לר' יוסי. ר' יוסי יודי לרבן שמעון בן גמליאל שאין אנו אחראין לרמאין. רשב"ג לא יודי לר' יוסי שאין דרך החבר להוציא מביתו דבר שאינו מתוקן:

Rabbi Yossi and Rabban Shimon ben Gamliel fundamentally agree: We don't need to account for the actions of thieves and fraudsters, and are not responsible for taking action that prevents them from engaging in further sin. In that case, why does Rabban Shimon ben Gamilel say that one should tithe from the produce he returns? Because it is unusual and inappropriate for a person to let produce leave his home when there exists doubt about its status.

As we have said, this expression- *force it upon a wicked person, and he will die*- seems to run directly counter to what we learned about *areivus*. Can we reconcile these two diametrically opposed ideas, and how can they exist within the same tradition?

Rav Yair Chaim Bacharach (1631-1702) was a major *posek* and polymath in 17th century Germany who was a great grandson of the Maharal of Prague. He named his responsa *Chavos Yair* after his grandmother, Eva (Chava), who was an exceedingly pious and learned woman. In

his responsa, Rav Bacharach is bothered by the language of Rabban Shimon ben Gamliel, as it suggests that we need not warn a person about to transgress one sin when he is committing other transgressions as well. In this case, we don't need to prevent a person from consuming Orlah if he is already engaged in an act of theft. He even implies that we are allowed to force (lit., force-feed) an established evildoer to sin. Rav Bacharach suggests that the principle of הלעיטהו לרשע means that when a person, through his negative choices and actions, has separated himself from the community that would be spiritually responsible for him, he stands judgement on his own. [Rabbi Bacharach suggests further the possibility that *areivus*, responsibility toward another Jew and their mitzvah observance, is superseded by the public good. If one Jew is leading others astray, we should be concerned about their personal *mitzvah* observance and we should let the individual sin overtly, rather than insidiously spurring others to do so.] This principle bothered Rav Bacharach deeply, and he said “anyone who can find a cure for my illness about this will be considered an artful healer by me.”

שו"ת חוות יאיר סימן קמב

והנה טעמא דרשב"ג דהלעיטהו לרשע וימות וכך מפורש בברייתא שהביא בש"ס ב"ק ס"ט ע"א. ואני תמה מאד על לשון זה דהמשמעות בפשטי' דלא לבד בהאי מלתא גופא דלא נקפיד להזהירו מאיסור אם בלה"נ יש בו עוד איסור שיעבור רק בכל שהוחזק רשע גם משמע דשרי לספינהו איסור בידיים ואיך יתכן זה ואנו מוזהרין על כל איש ישראל להזהירו בחשש שוגג ולמנעו בכל כוחינו ממזיד (עי' בי"ד סי' רכ"ח סט"ו בהג"ה) ואפילו את"ל בזה דאם יאכל הרי רשע הוא לכן לא מוטל להזהירו בזה הדבר בעצמו והלעיטהו לאו דווקא מ"מ קשה הרי ק"ל החשוד לדבר אחד אינו חשוד לד"א כ"ש אם חמיר מיני' (ולכן ק"ל מותרת לדבר קל א"מ לדבר חמיר) כ"ש שאינו חשוד לדבר שיש בו ב' איסורים ה"נ אפשר שיפרוש מן הגזל ע"י איסור מוסיף של ערלה... ומי שיעלה ארוכה למחלתי בזה רופא אומן יקרא

Rav Yerucham Fischel Perla (1846-1934), of Warsaw and then Yerushalaim, wrote a major commentary on Rav Saadya Gaon's *Sefer Hamitzvot*. Interestingly enough, Rav Saadya Gaon's work is approximately sixty lines long, and is written in poetry form. Rav Perla's commentary on

these lines encompasses several volumes. In his commentary, Rav Perlow is bothered by the same problem that Rav Bacharach was. How can we reconcile the concept of *areivus* with the concept of *hal'itehu*? Taken up the challenge issued by Rav Bacharach, Rav Perlow says that he is no healer at all, let alone an artful one, but suggests a possibility by which the Chavos Yair's quandary may be resolved. The concept of *areivus* is a social contract among Jews. The "guarantor" the responsibility to pay the "debts" of the person to whom he is responsible, and in exchange, he person is permitted to intervene in the spiritual affairs of his fellow Jew. This all presumes that a person is still able to be included in the spiritual community. If a person is not, for whatever reason- excommunication or self removal, or example- we no longer are obligated to include or rebuke such a person. R. Shimon ben Gamliel's statement, "in the other years of the Sabbatical cycle, let him stuff himself and die" is based on this as well: Collective responsibility no longer applies when there is no way to prevent the sins of robbery and theft. Accordingly, R. Shimon ben Gamliel maintains that collective responsibility does not apply even when another sin is committed concomitantly with robbery or theft, such as orlah -- and even though one would have been able to protest or prevent that other sin. Rav Perla's conception of our responsibility in *areivus* is predicated on an honest assessment of our ability to rebuke the person who is doing wrong. We are always, in principle, responsible for the behavior of a person who sins, but when we know that nothing we can do will stop a person from sinning, we are left with no choice other than to leave a person alone to his or her devices.

The possibilities suggested by Rav Bacharach and Rav Perlow are somewhat similar, and this is logical, for Rav Perlow based his response on that of Rav Bacharach. A different approach, however, can be find in the commentary of Rabbi Menachem HaMeiri, in his commentary *Beis*

HaBechirah on Maseches Bava Kamma, and in the commentary of Rabbi Shlomo Sirilio on Maseches Demai in the Talmud Yerushalmi. Both of these commentaries suggest that הלעיטהו is not a step taken to protect other Jews from the actions of profligate sinners, and is not an exemption from further spiritual intervention based on practical considerations. Instead, it is a *punishment for a wicked person*. We allow such a person to sin so that he will meet his demise while being in a sinful state- the sooner, the better. Rav Sirilio's formulation is shocking in its bluntness:

פירוש של הר"ש סרליאו לתלמוד ירושלמי מסכת דמאי פרק ג הלכה ג

...וקאמר רשב"ג דבשאר שני שבוע אין מציינין, דכיון דאין רשות לגעת בהן גזלנין הן, והעליטהו לרשע וימות. וכל היכא דאיכא איסורי טפי, עדיף טפי, כדי שימות מהרה.

This discussion sounds like it might be academic, but it has real halachic implications. What if you are told by someone that they are about to partake of an activity that you know to be prohibited, as a matter of Jewish law- or they tell you they do so regularly? Or, better yet, what if you find them actually participating in that activity? This has happened to me numerous times in my Rabbinic career. Such a question was raised by Rav Eliezer Yehuda Waldenberg, in his responsa "Tzitz Eliezer." (15:18). If one Jew is stopped by another and asked for driving directions on Shabbos, is he allowed to respond? On the one hand, by giving directions, the driver will arrive at his destination sooner and won't have to stop again to ask for directions, thereby minimizing Shabbos violations. On the other hand, the act of providing the Jew with directions may reinforce the violation of Shabbos, because the driver won't be involved in a *lesser* sin, he will merely be committing the *same* sin for *less time*. Rav Waldenberg emphatically rejects the first possibility, that reducing the time over which Shabbos is violated is

a mitigating factor, and invokes the concept of *hal'itehu* to explain his rationale. We have no obligation to prevent the driver from sinning by reducing the duration of the sin he is committing at that moment, as the driver would be unlikely to exit the car and stop driving immediately if we told him to do so. Rav Waldenberg raises the concern that answering the driver's request might even lead to a *chillul Hashem*, because the driver might view the act of giving directions as a form of tacit approval, or, at the very least, a lack of *disapproval*. It is worth noting that this example becomes, with time, quaint and antiquated. Nowadays, people have navigating apps that take out the guesswork for them, and this scenario would only apply in an area where one can be confident that the driver is a member of the tribe. Obviously, it would also only apply to women, as a man would never stop to ask for those directions...

Yet another fascinating, albeit somewhat less contemporary historical application of this principle can be found in the Halachic responsa of Rav Chaim Yosef David Azoulay (1724-1806), a prolific writer, bibliophile and halachist who traveled extensively throughout the Jewish diaspora, including in Ashkenazic countries. The Chid"ra was asked a fascinating question that gives us insight into the communal life of the Jewish communities in Italy and Greece three hundred years ago. In one of the cities in southern Greece that were under a certain jurisdiction, Jews were allowed to formulate and adhere to their own communal edicts. There was a strictly enforced rule in the community that forbade any kind of dancing with women, save for a husband with a wife or a brother and a sister. I will save you the trouble and point out that this is the very embodiment of all the tired and hackneyed Jewish jokes about various activities being prohibited because they lead to mixed dancing. In this case, it was mixed dancing that was

prohibited because it led to mixed dancing... The edict in the community had a five year enforcement period and, at the end of each five year period, was automatically renewed unless its non-renewal was explicitly declared by the elders of the community. One day, a group of 15 or so young men approached the Va'ad of the city- and by Va'ad, I don't mean the local kashrut authority; rather, it refers to the governing communal body in charge of decrees and finances for the community. The request of these young men to the Va'ad was that at the impending conclusion of the current five year period, the Va'ad should cancel the rule. Evidently, a number of young men were caught dancing with unrelated women, and even with non-Jewish women. Was it better to cancel the decree, so that the wayward young men wouldn't be adding sins to the ones they already committed by flagrantly violating communal rules? Or was it better to leave the decree as is, as that would strengthen those who avoided such behavior until now, entirely on account of the edict? The question was first posed to Rav Moshe Soskino of Florence, who ruled unequivocally that the decree should stand. Based on the Rambam's formulation, he writes that they should adhere to the original edict and make certain it is renewed; those who attempt to go against it should not be taken into account and will have to pay the price on their own. The Chida gave this ruling his enthusiastic approbation. If a minority is found to be violating the decree, he said, we must not change our standards and we have no obligation assume responsibility for promiscuous and frivolous individuals.

Application

The complex tension between *areivut* and *hal'itehu lerasha* can all be boiled down to one fundamental question, from which all discussion flows: What does it mean to be a part of a community? Do we respect the individual choices of the people we want to be a part of a communal collective, what does that mean and how far are we willing to take it? Despite its harsh formulation, the idea of *hali'tehu* acknowledges several important truths of about the nature of a community, especially a religious one.

First, a religious community is entitled, and encouraged, to formulate rules and regulations that serve a prerequisite for belonging. Reportedly, on his first Kol Nidrei night after the establishment of a Satmar *kehilla* in the United States, Rav Yoel Teitelbaum, the Satmar Rav, ascended the pulpit and began outlining a list of decrees by which everyone in his community would abide. After outlining it, he said “*Di zenen die kholim. Ver se tut nachfolgen zei, zol aroisgehen fun dem sheel.*” These are the rules- whoever doesn’t want to follow them can leave the shul right now. No one *had* to join him, but if they did, it would be on his terms and under his rules. Of course, our community is radically different from his, but any community does and should have such rules, whether they are rules for membership, rules for receiving ritual and communal honors or rules for serving in leadership roles.

Second, the act of establishing rules for belonging creates a reality in which there will be people who don’t adhere to those rules, and may opt out of them entirely. Having rules and laws means that there must be a consequence for violating them; to insist that people who choose to “opt out and violate these rules intentionally are still “in” seems counterfactual in light of their actions

and choices, and perhaps even insulting to their ability to make those choices. It is hard to impose punishment on someone who doesn't care about the violation! *Hal'itehu* recognizes the free will of every person to decide which *mitzvos* they are ready and willing to perform, and whether they want to be members of the community of *shomrei mitzvos*, but also that there are spiritual and social consequences to not performing them. Historically, concepts like *tinok shenishba*- a kidnapped child- were invoked to understand and deal with the reality of unobservant and unlettered Jews, who would surely embrace traditional Judaism if only they knew what it was about. These concepts are still valid, and there are plenty of people who haven't adopted a Torah lifestyle because of misconceptions or inertia or simply a lack of knowledge or awareness. But there are also people who know full well what it is about and have decided, for whatever reason, it isn't for them. If they have chosen to leave the community of *shomrei Torah umitzvos*, *hal'itehu*- despite its harsh sound- honors that choice, even as it leaves them to their own spiritual devices.

But there is a third point, one brought out by a careful reading of the Yerushalmi. For the Yerushalmi, the primary concern when taking off tithes is not the trustworthiness of the innkeeper who is returning the produce- it is the integrity of the person who is doing the returning. Even if the recipient does not care at all about the laws of tithing, the person returning the produce must be careful to adhere to the highest standards at all times, even if no one else around him cares to do so. Perhaps the no one in the world around us will change from their sinful ways as a result of our influence, but we must still adhere to the highest possible standards, and never dull our spiritual sensitivities about what it means when another Jew sins. That is the

meaning of “*metukan*”- we must be concerned about that which comes out of our own hands- meaning our heads, hearts and homes- to ensure that it is in order, proper and correct. *Metukan* means that I want to take great care that my actions aren’t the direct cause of or complicit in the sinning of another Jew, for that is really what *areivut* is about. Responsibility for another Jew is not just a call to social justice and not some bland platitude; it is a spiritual imperative in which we care for the soul and the mitzvah observance of every single Jew. We live in a diverse community and often have diverse families; in order to preserve important friendships, navigate delicate family dynamics and prevent complex social situations for ourselves and our children, we are usually better off adopting a non-judgemental attitude in which we accept all as they are and say nothing to other people about their level of observance. Besides, attempting to “make people frum” is not something we do- we tell ourselves that that kind of agenda driven outreach is the kind practiced by our friends down the street, and isn’t for us. The decision not to pass judgement or not to get involved with the observance of another person may be expedient, necessary, valid and even correct, but it must come with another realization. For our sages, writing ourselves out of the story of the observance of another Jew is the same as saying *hal’itehu lerasha veyamus*- we are literally saying that another person is “wicked,” so to speak, and that we have washed our hands of responsibility for their spiritual well being. It is as though we are throwing our hands up, that we have given up on another Jew. The tension between mutual responsibility, of *areivus*, and between autonomy to sin is a real challenge, to be sure, and balancing it is a calculation we make all the time. We all have circumstances we take into consideration when deciding what we will and won’t countenance, what religious violations we are willing to indulge (or even allow ourselves), what we want to inoculate our children against

to be exposed to and what we need to do to keep the peace. When we say nothing as friends and family we've invited to our home for Shabbos and Yom Tov arrive in a car, or when the same friends exercise less than kosher options in their dining preferences, we are making that choice. When we let our children spend time on Shabbos with friends who aren't halachically observing it yet we say nothing to the friend, we are making that choice. When our schools screen backpacks for foods that are allergenic but not for foods that are *treif*, our community is making a choice. When we continue friendships with inveterate gossips or attempt to curry favor with bullies without commenting on or distancing ourselves from their toxic behavior, we are making a choice. Perhaps it may be necessary, or seem that way and that choice may be necessary but it will require extra work for ourselves and our families to overcome the dulling of our spiritual sensitivities. I noticed this within myself long before I came to this community, where these concerns are writ large- and I actually noticed it in a fairly innocuous context- my choice of entertainment. I happen to be a huge fan of the show *Bizarre Foods*, featuring James Beard Award winner Andrew Zimmern. With his trademark bald pate and iconic round glasses, Andrew Zimmern travels the world eating almost anything he can get his hands on, from stinky tofu to braised snake spleens (while I made that one up, I wouldn't be surprised if it figured on one of his shows). Aside from his ability to make even the most repulsive food appear enticing, Zimmern has an inspirational life story: he was a serious drug and alcohol addict for years- including one in which he was homeless-before cleaning up and becoming a chef. He now volunteers at the clinic in which he spent time in rehab. I really enjoy, but one day it hit me: I am being entertained by a show about a Jew who spends all his time eating things that could incur multiple biblical prohibitions in one act of eating! I realized that my choice of entertainment was

dulling my spiritual sensitivities- and this is one of the more innocuous example. Have I stopped watching him? I have not (aside from his dietary proclivities, the show represents clean, wholesome entertainment). But it made me realize that I needed to be more aware and more sensitive of what slipped by me, in general, without even a second glance. Granted, it's easy for me to talk about the soul of Andrew Zimmern, a man I've never met but think I would probably like. It's a lot more difficult, and sensitive, for me to speak about our community and people we know and love, and to apply it to the delicate balance in our relationships with friends and loved ones. Perhaps it is not within the sphere of practical familial and communal politics to comment on the Shabbos or kashrut observance of a parent, friend or child. Maybe our overtures toward enhancing Shabbos observance, taking up Jewish learning or refining speech might be, or have been, rejected. But deciding not to do something is, according to Chazal, a statement in its own right and comes at price- because we are preserving our connection to their hearts even as we forego a connection to their spirit. But even if we we won't change their actions and their minds, we must still be careful that their actions and minds don't change *us*- and we must be aware that writing them off is the last resort. At the beginning of this talk, we spoke about Rav Don Segal, "The mashgiach," and the harsh ruling he received from Rav Elyashiv when his brother died. But there is another piece to the story. After his brother's passing, a rumor began to circulate that when his brother stopped being observant, Rav Segal *did* sit shiva, as people used to do when a relative apostatized, God forbid. This rumor is incorrect. While Rav Segal and his immediate family didn't attend his brother's funeral, and while he didn't sit shiva at the end of his brother's life, he didn't sit shiva during it, either. In fact, Rav Segal scrupulously analyzed all the interviews his brother granted the media toward the end of his life and everything he published,

reading between the lines to see if he had somehow returned. He even sent Rav Yosef Shalom Elyashiv a number of statements his brother made to get his opinion on whether they represented a change of heart; for Rav Elyashiv, they did not. It seems that the two brothers are not actually that different, and may actually have been remarkably similar. You see, as militantly and rigidly Chareidi as Rav Don is, that is how fervently secular his brother became- so much so that he insisted that his burial be devoid of religious rites, and that no shiva or kaddish should be observed for him. As much as Rav Don's rigid principles did not permit him to violate his deeply held religious code and his strict halachic interpretations, nor did they permit him to contravene the ruling of the man he revered as his spiritual mentor, Yisrael also never compromised on his moral code and secular lifestyle. Ironically, the one person who understood this and honored Yisrael's request was the person you've probably been thinking was so harsh and tone deaf- Rav Elyashiv's halachic ruling. Think of how ludicrous it would have seemed if Yisrael Segal were buried in a staunchly chareidi ceremony with all mourning rituals observed when he expressed his explicit wishes otherwise? And yet, even with all that, Rav Don never gave up on his brother, hoping against hope for his return...

Conclusion

Our journey together has shown us the complicated question that emerges when Jews of differing levels of observance live together. If we are willing to readily sacrifice people for principle, we may be unfeeling and uncaring, poor *areivim*, guarantors of our Jewish values and future. However, if our principles are sacrificed for any person and upon any pretext, they are not

principles at all- they are props in a play that is our religion. *Hal'itehu* should be the avenue of last resort, in which we no longer are concerned or responsible for the actions of another Jew- but if we choose that route we have to make sure we are prepared to work on ourselves as well. The tensions between these two ideals can best be encapsulated in a famous passage in the Talmud in tractate Berachot, recording an exchange between Rabbi Meir and his sagacious wife Bruriah. The verse we say in the prayer *Barchi Nafshi* tells us (104:35)

יִתְּמוּ חַטָּאִים מִן הָאָרֶץ, וְרָשָׁעִים עוֹד אֵינָם; בְּרַכֵּי נַפְשִׁי אֵת ה', הֲלֵלוּ יְהוָה!

The simple translation of this verse is, “Let sinners be extinct from the land, and evildoers no longer.” Bruriah, however, pointed out that the word *chata'im* does not mean “sinners,” it means “sins.” The correct interpretation of this verse, then, is that “Sins should be extinct from the land, and all people will no longer be wicked.” Far better to pray for a person’s return than leave that person to their own spiritual fate, abandoning any sense of responsibility and mutual concern.

The opposing principles of *areivut* and *hal'itehu lerasha veyamut*- mutual responsibility versus personal autonomy and consequence- are the poles within which we live daily. In navigating them, let us make wise choices, and may we always do what is best for our souls- our own, our families, and of our fellow Jews.