

# AVOIDING INTERVENTION AS A MODEL FOR DE-FACTO RELIGIOUS COMPROMISE

Daniel Tropper

*Halakhic rulings of rabbis have been used in recent years regarding burning issues on the Israeli social and political agenda. By presenting clearly defined positions, these rulings preclude compromise and impede the reasonable resolution of conflict.*

*This article marshals an array of responsa from various Jewish communities throughout the ages wherein leading rabbis restrained from reproach or withheld taking position on sensitive issues. The various rationales for restraint are presented and the article posits a halakhic category of restraint which resides in a dialectic relationship with the command to rebuke.*

The interface between the religious and secular communities in Israeli society is particularly sensitive and polarized today. The religious barricade themselves in a fortress, while the secularists distance themselves from any connection at all with traditional Jewish culture.

Among the factors which contribute to this situation are the *halakhic* (legal-religious) rulings of rabbis regarding burning issues on the agenda. A *halakhic* ruling, by its nature, presents a clearly defined position. While this may be an advantage within the religious community, it serves to exacerbate conflicts in society at large. A strictly defined ruling precludes compromise and impedes reasonable resolution of conflict in a confrontation.

*Jewish Political Studies Review 12:3-4 (Fall 2000)*

In recent years there has been a significant increase in the use of rabbinic rulings on sensitive issues. At first glance it would seem that a rabbi has no choice other than to express his "truth." The Torah explicitly commands us to reproach a person engaged in a forbidden act: "Thou shalt not hate thy brother in thy heart; thou shalt certainly rebuke thy neighbor, and not suffer sin on his account" (Leviticus 19:17). Maimonides defines this commandment as:

He who beholds his fellow stooping to sin or following an unrighteous path, is obliged to return him toward the good, and to let him know he is actually sinning against himself in pursuing wicked deeds for it is said: "And thou shalt indeed rebuke thy neighbor" (Lev. 19:17). He who rebukes his fellow, whether it be regarding a sin committed between man and man, or whether it be regarding matters between man and God, it is essential that the rebuke be administered only between them both; and he shall speak to him calmly, employing soft language, telling him that he does not speak of it to him, save for his own good, to bring him to a life in the world to come. If he receives it attentively from him, it is well, if not, he should rebuke him a second, even a third time. So is the constant duty of a man to continue to rebuke his fellow even until the sinner strikes him, and says to him: I will not listen. He in whose power it is to prevent sin and does not take the means to prevent it, is ultimately overtaken by that sin, since it was possible for him to prevent it.<sup>1</sup>

This definitive ruling of Maimonides leaves no room for doubt. On the contrary, unlike his usual style, Maimonides here adds a warning, and states that one who refrains from fulfilling this commandment, will himself be caught in the same sin. Moreover, there is a well known Midrash (a rabbinic legend) that states that Job was sentenced to suffer because he was silent, and did not protest to Pharaoh when he planned to enslave the Jewish people.<sup>2</sup> The consequence of adherence to these and other sources is that some rabbis, albeit nobly motivated, use *halakhah* in a way that increases hostility and enmity in Israeli society.

However, within *halakhah* itself, there is another side to this issue of reproaching the wrongdoer. Indeed, even without dealing with the intricate details of *halakhot* (rules) of reproach, it is important to note that there are situations where *halakhah* permits, and even encourages, refraining from reproach. In certain situations one may say "I have not found a more appropriate approach than silence."<sup>3</sup> In the following discussion, we will present several responsa (rabbinic responses to specific questions, subsequently

published for the general public) wherein different rabbis found themselves in sensitive situations, and refrained from giving a formal opinion consciously and out of *halakhic* considerations.

The first responses are from the mid-twentieth century. Rabbi Moshe Feinstein, the leading *halakhic* authority of his day, was asked about raising flags (American and Israeli) in a synagogue, alongside the Holy Ark, and this was his answer:

19 Tamuz 5717

To my Friend and Colleague, the Brilliant, Righteous, Rabbi Yisachar Ba'arish Halprin, the Grand Rabbi of Reisha and Beitsh.  
[...]

Therefore while it is certainly not proper to admit (flags) into the synagogue, a holy place, definitely not to establish them there on a permanent basis, and certainly not next to the Ark, nevertheless, there is no actual prohibition to speak of, rather it is silly and nonsensical. If it is possible to remove them in a peaceful manner, then that would be the proper thing to do.<sup>4</sup>

In spite of the fact that in his opinion that there is no formal prohibition in *halakhah*, Rabbi Feinstein regards positioning flags in a synagogue as “silly and nonsensical,” and advises removing them. However, he then proceeds to warn:

But, to cause a dispute because of it is *forbidden*. And if it is possible to remove the flag without conflicts, so as there will be no memory of the acts of wrongdoers, it would be correct to do so; however Heaven forbid to cause a dispute over it. And therefore those who wish to establish for this reason a Minyan [a group of ten men for prayer] in another place, and think that they have done in this a great deed, are not behaving properly, for this is only “politics” driven by the evil spirit and Satan, who due to our sins dance among us, until God will have mercy on us and will send the righteous redeemer, who will inspire us with heavenly spirit to go in the path of the Torah and truth, without turning left or right.

Rabbi Feinstein's forcefulness is impressive. It seems that he feels that there is an attempt to disrupt and split the congregation, and concerning this he is willing to say “forbidden.” It is possible that his apprehensions arise from the fact that he wrote the response to a Hassidic Rabbi, and it is reasonable to assume that the situation did not occur in this Rabbi's “shtiebel,” rather in a different synagogue in the neighborhood. In any case, here is an example of Rabbi Feinstein refraining from interfering in a particu-

lar issue, in spite of his opinion that the unfit practice should be eliminated.

In a different response, on the much weightier matter of (religious) conversion, Rabbi Feinstein deals with a situation in which he believes there is a *halakhic* prohibition, and he is nevertheless willing to withhold his objections. He states unequivocally that he opposes the conversions current today, and adds that he personally refuses to perform such conversions:

Concerning the principle of conversion my mind cannot rest, I abstain from it not only because the law states a priori that a conversion is not accepted for the purpose of establishing a marital relationship, but rather because it is absolutely clear that she is not accepting the commandments but only voicing an acceptance. And without accepting the commandments, even one of them, it states in Bechorot 30 that you can not accept him.

And in most of the conversions in this country, that are for the purpose of marriage, they do not accept the commandments even when they say they do, it is obviously a fraud on all the laws of the Torah.<sup>5</sup>

Rabbi Feinstein's objection to conversion is fundamental; in his opinion the entire procedure is farcical, because the candidates for conversion declare their intention of accepting the commandments, without any intention to fulfill their commitment. In his opinion this is not conversion at all; in spite of this he proceeds to state:

Yet, it is possible that this particular convert will accept the commandments and therefore I will not say anything to the writer, for there are many rabbis in New York who accept such converts, and therefore it does not behoove me to say this is forbidden. However I am not comfortable with this, nor was my father and teacher. But I will not declare it prohibited, and the writer shall do as he sees fit according to his understanding, and according to the pressures.

The end of Rabbi Feinstein's answer is interesting. In spite of his fundamental *halakhic* opposition to conversion, he refuses to forbid it, "I will not declare it prohibited," and points out two reasons for his stand. First, many rabbis in New York perform conversions, and he will not delegitimize their position. Second, he allows the rabbi who sent him the question to "do as he sees fit, according to his understanding, and according to the pressures." In other words, he knows that a rabbi working in the field is sub-

ject to pressures not experienced by someone learning in the Beit Midrash. Rabbi Feinstein's pluralistic approach *within halakhah*, and his recognition of the difficulties presented by reality, allow him to stand back and not protest a practice, which, in his opinion, is fundamentally unacceptable.

Another much earlier example of self-restraint, appears in the responsa of the Ribash (Rabbi Isaac Bar Sheshet, North Africa, 1326-1408). The Ribash was appointed Rabbi in a certain city, and found that the women there washed their hair in nitre (washing soda) before going to the ritual baths, a practice outlawed by the Talmud which states: "A woman shall not wash hair in nitre" (Nidah 66). He describes his approach in these words:

And I saw that that the women heard only that which was less strict, even though that was not proper in this case. I ignored it, so that they would not say that I am slandering their customs of ritual bathing. I instructed my household, those close to me, who listen to me and hear what I say, that they should do what is proper. And in this I fulfill what our Sages say: "As it is a commandment to say what will be heard [obeyed], it is a commandment not to say that which will not be heard." R. Abba said: It is an obligation, as it says: "Do not reproach a joker, lest he hate you."<sup>6</sup>

The Ribash understood that the community would not accept his position, and he therefore decided to remain circumspect, so as not to create, Heaven forbid, the impression that there was something invalid in the women's bathing; only from his household and those close to him, did he demand a different level of behavior. He based his restraint on a practical reason, which he felt was grounded in the *halakhic* rule mentioned in the Talmud: "As it is a commandment to say what will be heard, it is a commandment not to say that which will not be heard."

In the responsa of the Nivchar Mikeseph, Rabbi Joash Bar Yosef Pinto (Damascus, 1565-1648) describes the wedding custom of amusing the groom by wearing women's clothing, apparently a transgression of the prohibition "A man shall not wear a women's dress" (Deuteronomy 22:5). He writes:

Indeed, if the judge (leader) sees that the generation is unruly, and will not listen to the voice of teachers and will transgress his reproaches willfully, it is preferable that they should be erring and not willful, as it says in the Talmud in the Tosephot 15, the women are not careful about it but one does not protest their

deeds, because it is better that they transgress in error rather than knowingly.

[...]

And if that is the case one should not judge except for what his eyes see. And if his words will bear fruit, then he is obliged to deter transgressors from sin, but if he sees that his words will not be heard, what has he profited by elevating their errors to a willful act?<sup>7</sup>

The reason that Rabbi Pinto refrained from interfering was theological: “it is preferable that they should be erring and not willful.” If the people will not listen to the rabbi’s words in any case, “what has he profited by elevating their misdeed to a willful act?” Juxtaposed to the commandment of “thou shalt certainly rebuke” is our desire to minimize damage to the sinner, and it is the latter consideration which prevails.

It is interesting to note that at the end of his response, Rabbi Pinto calls upon the meticulous to refrain from this custom: “And in any case, one who is God fearing will not be with them at the time of merriment, and will warn the God fearing and those who place importance in His name to act as he does.”

In spite of the fact that, in his opinion, this custom is *halakhically* forbidden, he nevertheless seeks opinions of other rabbis who permit it. The existence of such lenient positions mitigates his need to reproach offenders in the community, and allows him to ignore behavior which, in his opinion, is forbidden.

Such is not the case in the responsa of the Sridei Ha’esh. Rabbi Yehiel Yaakov Weinberg, of the mid-twentieth century, faced behavior forbidden by Torah law according to all opinions: the presence of Kohanim (the priestly class) in a graveyard. He wrote:

Concerning the priests who enter the graveyard — surely the rabbi is obligated to admonish with all his strength and request support from Synagogue officials in this matter. But in any case he must implement his policy in a wise and appropriately polite manner, so that he will not cause, Heaven forbid, that the heads of the congregation will be angry with him, and will ignore his authority and no longer conduct themselves according to his warnings. And it is known what our Sages said (Yevamot 65:72): “As it is a commandment to say what will be heard, it is a commandment not to say that which will not be heard.” And it is the rabbi’s responsibility, as leader of the congregation, to be very careful in this so that, Heaven forbid, he will not forfeit his influence over his congregation so that his words will not be heard at all.<sup>8</sup>

Rabbi Weinberg opens his statement with the classical commandment to rebuke, in the spirit of Maimonides (as noted above). But at the end of his statement, it is as if he “shifts gears”; he recommends considering restraint in the specific situation — although without explicitly saying so. His reasoning is particularly interesting. He is concerned that there is a danger in proclaiming a specific *halakhic* determination that will be ignored; this may undermine the rabbi’s influence on the congregation. He brings support for his position from the Talmudic ruling: “As it is a commandment to say what will be heard, it is a commandment not to say that which will not be heard.” With the use of this ruling he determines that protecting the position and influence of a rabbi is, at times, a *halakhic* category which justifies refraining from offering rebuke. The long term consideration is more important than immediate results, especially if the immediate rebuke will not achieve the desired results.

Two interesting *halakhic* rulings appear in the responsa of Noda B’Yehuda, R. Yehezkel Landau (eighteenth century). The rabbi received a question concerning a new custom introduced by the Hassidic movement: The blessing upon fulfillment of a commandment would be preceded by a proclamation of readiness to fulfill that commandment (“I am ready and willing”), and a statement of Kabbalistic meaning (“leshem yichud”). He writes:

And concerning the fourth (question), regarding the proper text for “Les’hem yichud,” which has recently spread and been printed in many prayer books, this is my answer: Before you ask me which text is to be said, it would be more appropriate to ask whether to say anything at all. In my opinion, this is a malady of our generation, unlike preceding generations who did not know this custom and did not make statements. They spent their lives preserving the Torah and its commandments, according to the Torah and the authorities.

[...]

But in our generation, because they have left God’s Torah and the very source of life, the Babylonian and the Jerusalem Talmud, to draw brackish water. They are arrogant and full of pride. Each one says: It is I who see, and for me alone, the gates of Heaven open, and because of me the world exists. These are the destroyers of the generation. And regarding this orphaned generation I say: “Straight are the paths of God, and the righteous will walk in them and the *Hassidim* will fail in them.” And much I have to say on this matter but, “As it is a commandment to say what will be heard, it is a commandment not to say that which will not be heard,” and may God have mercy on us.<sup>9</sup>

Rabbi Yehezkel Landau was one of the foremost opponents of the Hassidic movement. As he makes clear, he sees Hassidism as a movement that deviates from ways that have been accepted for generations, a movement that replaces the established *halakhic* method, grounded in the Talmud and classic authorities, with Kabbala and personal revelations. He calls this process a “malady of our generation,” and refers to the leaders of that movement as “destroyers of the generation.” He sarcastically emends a sentence from the prophecy of Yoel. Instead of “and the *sinner*s will fail in them,” he writes “and the *Hassidim* will fail in them.”

He sees the changes that the Hassidim made in the prayers and in *halakhah* as a clear spiritual danger, but also understands that the people follow them. Therefore, he hedges his rulings, and does not forbid the custom entirely, since in any case the people will not accept his teachings. In other words: even as he faces a phenomenon that, in his opinion, represented a fundamental spiritual danger to the Jewish people, he restrains himself, and does not fight a losing battle.

Another responsum in Noda B’Yehuda written by the son of the author, Rabbi Shmuel son of Rabbi Yehezkel Landau, is particularly touching. The response was written during a difficult period when the Czar drafted Jews into the Russian army. Service in the Czar’s army involved desecrating the Sabbath, eating non-kosher foods, and, in many cases, ultimately converting to Christianity. Conscription was based upon a quota imposed on a particular community, including the Jewish community. Jewish parents tried everything to save their sons from this terrible edict. Naturally, the more affluent Jews had resources unavailable to their poorer brethren: the possibility of utilizing connections and paying a bribe. It thus happened not rarely that the sons of the poor were drafted instead of the sons of the rich. The question posed to Rabbi Shmuel was whether it was permissible to take such an action.

In his painful and emotional answer, involving life on a most basic level, Rabbi Shmuel endeavors to establish the parameters of the permissible. On the one hand, he unequivocally forbids delivering ‘certain’ children to the governor in order to fill the quota, and says: “it is absolutely forbidden to deliver [them] by hand.” On the other hand, he finds it difficult to forbid using connections in order to prevent the draft of a son, although it will probably lead to the draft of someone else. At the end of his responsum, he touches on a particularly difficult question: Can a father, whose son has *already* been drafted, work to release him



by giving a bribe, when he knows that another Jewish child will necessarily be drafted in his place. He writes in trembling fear:

But if the draft order already arrives, it is difficult to permit making an effort to achieve the child's release, if when he is freed another will be caught in the same trap. What makes you regard his blood as redder than that of the one who will take his place? And I know it is difficult to rule forcefully on this issue and regarding this our Sages say: "As it is a commandment to say what will be heard, it is a commandment not to say that which will not be heard," and the wise man will remain silent at that time.<sup>10</sup>

Although Rabbi Shmuel says "it is difficult to permit" saving the child, the impression is clear that in his opinion, one is forbidden to seek the release of his son. But, the very human dilemma that is presented is unbearably difficult: How can he advise a father, who has the capacity to save his son from potential coerced conversion, not to do so? It is an unnatural and inhumane demand. Therefore, the rabbi decides to refrain from giving a definite opinion, in spite of the fact that this is a ruling that involves life and death, by using the modest yet agonizing expression: "and the wise man will remain silent at that time."

A very important responsum which reflects courage and deep psychological insight, appears in the responsa one of the greatest rabbis of the Middle Ages, the Rashba (Rabbi Shlomo Ben Aderet, Spain, thirteenth-fourteenth century). While it is difficult to define the specific question to which he responds, it obviously concerns an extremely sensitive issue that arose in the community. In the beginning of his answer, the Rashba explains that sometimes it is only possible to achieve the final aim by small steps and temporary self-restraint, and that in this slow process one must sometimes ignore certain problems that arise.

And remember please the case of David our master and king, who used to turn his eyes from Yoav and Shimi, in spite of the fact that these acts were punishable by death, and the reason, he said: "Because today I know I am king of Israel," and for everything there is a correct time. Ignoring the acts of transgressors is at times a commandment, and all must be judged according to the needs of the hour.<sup>11</sup>

But the Rashba is not content with this statement; he understands that the situation is very serious, and that the rabbi who turned to him finds it difficult to restrain himself and remain si-

lent when facing the dreadful injustice against which he complains. Therefore the Rashba goes on to write:

And one needs moderation, consensus and consultations [before acting]. It is indeed painful for those who act in God's name because the harsher the deed and the greater the violence, the more the situation demands control and restraint of anger. And the judge must be self critical, lest the fire of his zealousness for God burn in him and prevent him from seeing the correct and just path.

Indeed, he writes, the greater the injustice the more difficult it is to exercise restraint. The natural impulse of one who fears God and is zealous for His honor, when he confronts a terrible misdeed, is to scream and rebuke. But it is precisely in these moments that the judge must judge himself — does his emotional reaction “prevent him from seeing the correct and just path”? In these reasoned lines the Rashba implores zealots to be moderate and to consider restraint for the sake of the ultimate goal.

Lastly, we will bring a responsum of the Ktav Sofer, the son of the Hatam Sofer (Hungary, nineteenth century). In this responsum he summarizes the condition of a rabbi who sees the misdeeds done in his congregation and who worries that reproof will cause more damage than good. He cites different opinions and in the end decides that there are no rules in this issue, and that it is the judgment of the rabbi, who must assess the benefit verses the damage, that is decisive:

However, someone who sits on the chair of the rabbinate, and is accepted to supervise the ways of the city and teach a way of life, to rebuke them with words and try to uphold the religion as much as possible, will not have mercy on himself, because his eyes and heart will always be on God....Nevertheless, all goes according to the assessment of the teacher regarding whether his words will be accepted or not. As it is a commandment to say what will be heard, it is a commandment not to say that which will not be heard. And truly, the commandment of rebuke is the most difficult of all, who can weigh on the scales of his mind, whether his silence is positive or not?

[...]

This applies, as long as scholars are respected by the people and their true worth is recognized, and only in cases where the [community's] evil instinct overpowered them so that they trespassed God's commandments. In this case, there is a glimmer of hope that words and admonishment will stop the sinners, and one must rebuke them even a hundred times. But if they mock the

scholars who are walking the path of Torah and fear of God, and place light in darkness and also ridicule them, then they will surely not accept their [rabbis'] words and they will not enter their ears and they will not listen to their voices, and it is obvious and apparent that their words will not be needed.

And therefore, it is impossible to advise one's colleague: rather each person will see what is before him. And God will guide us with good counsel.<sup>12</sup>

In another text the Ktav Sofer takes a further step on this issue. In a speech delivered on the Sabbath of Hanukkah, the Rabbi expressed his pain that many stores remain open after the Sabbath begins. At the end of his speech he indicates that actually he is capable of stopping this troublesome custom by using force. However, while force could bring about the practical result of closing the stores, it can not attain the truly important goal: bringing Jews to keep the Sabbath out of fear of Heaven and worship of God, out of recognition and joy. He understands that even if coercion will bring about practical benefits — the stores will be closed — it will not affect the people's hearts. On the contrary, it might cause alienation. Therefore, he summarizes:

And today because of our many sins also this breach has been created as well, i.e., the desecration of Sabbath. Previously this [desecration] was never seen in a Jewish neighborhood because the stores were always closed. But now, with our multiple sins, this plague has spread in the Jewish neighborhood...and I am capable of forcibly wiping it out, but I want it to be done by free will, that the people should keep the Sabbath out of satisfaction and enjoyment, in honor of the Giver of the Torah, God.

The responsa cited demonstrate that alongside the positive commandment to rebuke a transgressor — there are other *halakhic* arguments that obligate self-restraint. There are many reasons one should consider in weighing restraint: Understanding that if the public will not accept your words they should be left to behave mistakenly rather than making their actions willful; the desire not to undermine the status of the rabbi when the public ignores his proclamations; sensitivity to the difficulty of rebuke — whether because of community pressures or because of human reasons; a tactical decision to promote a gradual process leading to a specific goal; or refraining from coercion so as to bring about voluntary compliance.

However, what is absolutely critical is to recognize that alongside the *halakhic* category of rebuking evil doers, there exists an

*equally legitimate halakhic category* — self-restraint. One must not see moderation or restraint as an expression of weakness or fear. It is important to analyze each case separately, and then act out of consideration and responsibility; as the Ktav Sofer states: “And therefore, it is impossible to advise one’s colleague; rather each person will see what is before him. And God will guide us with good counsel.”

### Notes

- \* Translation by Sharon Levi.
- 1. Maimonides, Book of Ethics, 6:7.
- 2. Babylonian Talmud, Sotah, 11a.
- 3. Pirkei Avot, 1:17.
- 4. Rabbi Moshe Feinstein, *אגרות משה*, Orech Chaim 1:46.
- 5. Rabbi Moshe Feinstein, *אגרות משה*, Yoreh Deah 1:159.
- 6. Rabbi Yitzchak Bar Sheshet, *ש"ת הריב"ש*, No. 35.
- 7. Rabbi Yishayahu Bar Yosef Pinto, *ת נבחר מכסף"ש*, 14:16.
- 8. Rabbi Yehiel Yaakov Weinberg, *שרידי אש*, 2:67.
- 9. Rabbi Yehezkel Landau, *נודע ביהודה*, Kama 10:93.
- 10. Rabbi Yehezkel Landau, *נודע ביהודה*, Tanina 10:74, Answer by his son Shmuel Shmalk.
- 11. Rabbi Shlomo Aderet, *א"ת הרשב"ש*, 5:238.
- 12. Ktav Sofer, *דרשות*, Speech for the Sabbath of Hanukkah, 64-65.