

Freedom of Speech in Jewish Tradition: Upholding It Even When We Disagree



Freedom of speech is an ancient Jewish value, as well as a keystone of democracy. Even if we find certain speech distasteful or disruptive, we all lose when we attempt to quash such speech—as long as it does not rise to the level of inciting violence. Boycotts have long been defined as a form of protected speech. While we may disagree, even vehemently, with the Boycott, Divestment, and Sanctions (BDS) movement, trying to shut down a non-violent movement is both undemocratic and un-Jewish.

A. THE PRIMARY SOURCE—ELDAD AND MEDAD: NUMBERS 11

24 Moses went out and reported the words of the ETERNAL to the people. He gathered seventy of the people's elders and stationed them around the Tent. **25** Then the ETERNAL came down in a cloud and spoke to him; [God] drew upon the spirit that was on him and put it upon the seventy elders. And when the spirit rested upon them, they prophesied, but did not continue.

26 Two men, one named Eldad and the other Medad, had remained in camp; yet the spirit rested upon them—they were among those recorded, but they had not gone out to the Tent—and they prophesied in the camp.

27 A youth ran out and told Moses, saying, "Eldad and Medad are prophesying in the camp!" **28** And Joshua son of Nun, Moses' attendant from his youth, spoke up and said, "My lord Moses, restrain [literally: jail] them!" **29** But Moses said to him, "Are you wrought up on my account? Would that all the ETERNAL's people were prophets, that the ETERNAL put [divine] spirit upon them!" (Translation: NJPS, modified)

(כד) וַיֵּצֵא מֹשֶׁה וַיְדַבֵּר אֶל הָעָם אֵת דְּבָרֵי ה' וַיִּקְּטֹף שְׁבַעִים אִישׁ מִזִּקְנֵי הָעָם וַיַּעֲמֵד אֹתָם סְבִיבֹת הָאֹהֶל: (כה) וַיֵּרֶד ה' בְּעָנָן וַיְדַבֵּר אֵלָיו וַיִּזְאָל מִן הָרוּחַ אֲשֶׁר עָלָיו וַיִּתֵּן עַל שְׁבַעִים אִישׁ הַזִּקְנִים וַיְהִי כְּנוּחַ עֲלֵיהֶם הָרוּחַ וַיִּתְנַבְּאוּ וְלֹא יָסֹפוּ:

(כו) וַיִּשְׁאַרוּ שְׁנֵי אַנְשִׁים בַּמַּחֲנֶה שֵׁם הָאֶחָד אֶלְדָּד וְשֵׁם הַשֵּׁנִי מֵיָדָד וַתֵּנַח עֲלֵהֶם הָרוּחַ וְהֵמָּה בְּפִתְּיָם וְלֹא יָצְאוּ הָאֹהֶל וַיִּתְנַבְּאוּ בַּמַּחֲנֶה:

(כז) וַיִּרְץ הַנֶּעֱר וַיִּגַּד לְמֹשֶׁה וַיֹּאמֶר אֶלְדָּד וּמֵיָדָד מִתְנַבְּאִים בַּמַּחֲנֶה: (כח) וַיַּעַן יְהוֹשֻׁעַ בֶּן נֹון מִשְׁרַת מֹשֶׁה מִבְּחָרָיו וַיֹּאמֶר אֲדֹנָי מֹשֶׁה כָּלֵאָם: (כט) וַיֹּאמֶר לוֹ מֹשֶׁה הֲמִקְנָא אֶתְּהָ לִּי וּמִי יִתֶּן כָּל עַם ה' נְבִיאִים כִּי יִתֵּן ה' אֶת רוּחוֹ עֲלֵיהֶם:

Talmud, Sanhedrin 17a

What did they prophesy? They said: Moses will die and Joshua will bring Israel into the land...

What [did he mean] "jail them"? He said: Put upon them [responsibility for] the needs of the community, and they will stop [prophesying] of their own accord.

ומה נבואה נתנבאו? אמרו: משה מת, יהושע מכניס את ישראל לארץ...

מאי כלאם - אמר ליה: הטל עליהן צרכי ציבור, והן כלין מאיליהן.

- How do Eldad and Medad present a disruption? Why does Moses allow them to continue?
- The Talmud is so uncomfortable with Joshua's suggestion that it rewrites it. How do you understand the prescription here for what to do with those whose speech is disruptive?

We might think this a unique case—prophecy comes from God, so mere mortals should not silence it. But the rabbis routinely record minority voices, even outrageous ones, even when the stakes are high.

B. NIMBM (NOT IN MY BEIT MIDRASH): TALMUD, SANHEDRIN 62A

Rabbi Zakai taught before Rabbi Yochanan: One who sacrificed, offered incense, poured out a libation, and bowed down [to an idol] through a lapse of awareness [of the relevant laws] is only obligated [to bring] one [sacrifice, not four]. [Rabbi Yochanan] said to him: Get out! Teach [that] outside!

Rabbi Abba said: That teaching of Rabbi Zakai's [corresponds to] a debate between Rabbi Yosi and Rabbi Natan, as was taught: [the prohibition against] burning a fire [on Shabbat] was singled out [and mentioned explicitly in the Torah (Ex. 35:3) to indicate it is an ordinary] prohibition [and does not carry the penalty of stoning]--so said Rabbi Yosi. Rabbi Natan said it was singled out to separate [the laws of Shabbat, to teach that each infraction comes with its own separate punishment].

According to the one who said burning was singled out [as a different level of] prohibition, [Rabbi Yosi], bowing down [to an idol] would also be singled out as a [different level of] prohibition [(Ex. 20:5); according to this logic, Rabbi Zakai's teaching would be valid]...

תני רבי זכאי קמיה
דרבי יוחנן זיבח וקיטר
וניסך והשתחוה
בהעלם אחד אינו חייב
אלא אחת. אמר ליה
פוק תני לברא!

אמר רבי אבא הא
דאמר ר' זכאי מחלוקת
ר' יוסי ורבי נתן דתניא
הבערה ללא יצאה
דברי רבי יוסי. ורבי
נתן אומר לחלק יצאה.

למאן דאמר הבערה
ללא יצאה השתחוואה
נמי ללא יצאה...

- What do you think about Rabbi Yochanan's treatment of his student Rabbi Zakai?
- What is Rabbi Abba doing? What do you learn from him?

C. EVEN LASHON HARA: THE CHOFETZ CHAYIM (LASHON HARA 5:8, QTD. IN BAR ILAN, BELOW)

The Chofetz Chayim says one may even speak *lashon hara* and gossip, if "The townsfolk are going to appoint someone to some position, and they are making a grave mistake."

החפץ חיים פוסק, שבתנאים מסוימים מותר
לומר לשון הרע ורכילות: "אם רואה שאנשי
העיר רוצים למנות לאחד בעיר באיזה
התמנות, ומוטעין בו טעות גדול."

- The Chofetz Chayim (1839-1933) is famously strict about prohibiting any sort of speech not directly to someone's face as *lashon hara*. Why do you think he makes this exception?

D. CLOSING THOUGHTS

Rebbe Nachman of Breslov (Likutei Moharan 95)

When the leaders and major funders [*parnasim*] of a generation become overly prideful, the Holy Blessed One raises up people who will disagree and speak out against them, so that their spirits do not become coarse.

כשפרנסי הדור ומנהיגי הדור מתגאים,
אזי הקב"ה מקים עליהם בני אדם
שיחלקו וידברו עליהם, כדי שלא יזווחו
דעתם עליהם.

Naftali Tzvi Yehudah Bar-Ilan (*Government and State in Israel According to the Torah*, 2nd edition, 2013, p. 1074) (<http://hebrewbooks.org/pdfpager.aspx?req=53343&st=&pgnum=150&hilite=>)

In light of the essentiality of freedom of speech, it falls upon the *parnasim* [leaders/funders] to encourage it, to protect it, and to guarantee that nobody who exercises this right will be harmed.

לאור חיוניות חופש הביטוי על
הפרנסים לעודד אותו, להגן עליו,
ולהבטיח שאזרח שהשתמש בזכות
זו לא יפגע.

- According to these texts, what are the different roles that exist in a debate about public policy?
- What role do you see the organized Jewish community playing? What role do you feel called to play?