

# TALMUD TORAH 7:1

by Rabbi Yitzchak Etshalom

*[Yerav'am ben N'vat was the first king of the Northern kingdom (c. 950 BCE). His evil ways are clearly described in 1Kings 11 ff. He is often held up as the paradigm of evil (e.g. MT Teshuvah 5:2) - and his greatest sin was, evidently, leading the people towards idolatry - mod.]*

**1.** If a \*Hakham\*, seasoned in wisdom, a \*Nasi\* or an \*Av-Beit-Din\* behaved poorly, we never ostracize him publicly - unless he behaved like Yerav'am ben N'vat and his colleagues. However, if he violates any other sin, we lash him privately. As it says: "You shall stumble by day; the prophet also shall stumble with you by night..." (Hoshea [Hosea] 4:5) [meaning] even if he stumbles, cover him up like the night. They say to him: *"Hikkaved v'shev b'veitekhah"* (lit. "Be content with your glory, and stay at home" - Melakhim II [2Kings] 14:10). Similarly, if a \*Talmid Hakham\* became liable for \*Nidui\*, the Beit-Din is not allowed to rush to ostracize him; rather, they evade the matter and [try to] avoid it. The righteous among our sages took pride that they were never included [in a court] for the purpose of ostracizing a \*Talmid Hakham\* - even though they would be included for the purpose of administering lashes if he became liable for [the punishment of] lashes. They would even be included in a court for the purpose of administering \*Makkat Mardut\* (lashes administered by the court for violating a Rabbinic injunction).

[Additional comment: ZN (Zvi Nossan )]: Take a look in the Gemara Brachos in the sixth chapter, 35b, where Yeravam is mentioned as the ultimate leader of the masses into sinful situations. The gemara discusses over there the laws of brachot [blessings], and which brachot to make over which foods. In this specific gemara, the gemara mentions the name of Yeravam when discussing the mussar aspect to making brachot before we eat. The reasoning is that eating food without "permission" from the Creator is tantamount to stealing. People who would see a person eat without a bracha may assume that the transgressing person acted with permission. Therefore, the gemara calls this person a \*Chaver L'Ish Mashchit\*, a friend to a destructive person. Such a person, the Talmud tells us, was Yeravam. However, the following question was asked in my shiur: For the gemara to say that Yeravam was a destructive person, that is logical, for he was the king, and people would tend to follow their leader. That is why the Jewish people sinned. However, we, basic nobodies in the halachic world, have very little effect on our fellow Jews. The answer to that is painfully obvious. For example, see the Torah T'mima on Parchat Shelach, in the Parsha of Tzitzis [Numbers 15:37-41], where he expounds upon the reason of wearing the fringes out of the clothing. Simply put, people see them, and they are reminded of the mitzvot. So too in this gemara. Even the most normal person

can have a very large effect on another Jew. The Gemara chose Yeravam because he was a prime example of what is liable to happen should we not follow the Halachot set forth by the Creator.

**Q1:** Why do we protect the honor of these leaders who have "gone sour" - isn't it improper to show them favoritism? (Especially considering that their violations/poor behavior may have a worse impact on the community due to their positions.)

**YE** (Yitz Etshalom): The Gemara (BT Mo'ed Kattan 17a) states that this "protection" was legislated as a specifically enacted ordinance at Usha.

Rambam (in Responsum #111) seems to associate this "protection" with the general rule that we do not demote a public figure based merely on "rumor". This is either because public figures are subject to vilification in spite of their (possible) innocence - or because acting on such rumors strengthens their power. In either case, this would mean that we do not show them favoritism, rather we are more concerned that the report which causes us to consider action against them is trumped-up.

However, in our case, it seems clear that the offending sage really has acted improperly - so we need to find other justification.

What is the goal of \*Nidui\*? - 1) A deterrent (see TT 7:13 - "...in order that sinners not abound..."); 2) Punishment for a non-actionable crime (several of the examples in Rambam's list - at TT 6:14 - are violations of the law that, for one reason or another, are not actionable; e.g. tripping up a blind person); 3) A rehabilitative step for the offender (as implied by the effectiveness of \*Teshuvah\* in getting the ban lifted); 4) \*Kapparah\* - forgiveness from God (as implied by the formula for lifting the ban - \*...Machul Lakh\* - it is forgiven to you. See also Tosafot Nedarim 7b s.v. Meshamet Nafshei).

It is possible that one or several of these factors is at play in a given case of ostracism, depending on the circumstances. If the crime is not publicly known (as were the crimes of Yeravam ben N'vat), then #1 is a non-starter. If the offense is not really a crime - just poor behavior etc. - then #2 is irrelevant. That leaves the more instructional/spiritual steps. For most people, a private chastisement by the court would have little impact and would not effect the necessary introspective process, leading to rehabilitation, repentance, return and forgiveness. On the other hand, if the elder of the court is lashed in front of (and by) his colleagues and/or students - this is indeed shameful and is (hopefully) shocking enough to "wake him up". Indeed, his debasement in front of even a mini-court of three is likely as strong, if not stronger, than the public shame of conventional \*Nidui\* for a commoner. Even more - the fact that the \*Nidui\* has to be hushed is itself a source of pain and shame for all involved.

**Q2:** What is the meaning and relevance of the verse from Melakhim II - \*Hikkaved v'shev b'veitekhah\*?

**YE:** Rashi (Mo'ed Kattan 17a s.v. Hikkaved) provides two explanations: (a) \*Hikkaved\* - from \*Kaved\* - heavy. They tell him to behave as one whose head is heavy (weighted down) (with sorrow?shame?);

(b) \*Hikkaved\* from \*Kavod\* - honor. They tell him that the only way to preserve his honor is to stay at home. (although these two explanations diverge in approach and attitude, it should be noted that both words come from the same root and are etymologically related - see Ben Yehuda IV pp. 2223-2224, BDB p. 458)

The relevance of this verse may be understood as follows: Keeping in mind that Yerav'am, our villain, was the first King of Yisra'el after the separation from the Solomonic kingdom - and had done much to effect a strong separation. Amazia, the king of Yehuda (the south), sent a message to Y'hoash, King of the Yisra'el (the north), inviting him to meet. Y'hoash scorned the invitation, hinting that Amazia would be endangered if such a meeting took place. Y'hoash's words: \*Hikkaved v'sheiv b'veitekha\* - (hold on to your glory and stay at home) - have a touch of irony when recited by the court (for whom Y'hoash is a villain - see 2Melakhim 13:11). In addition, the model here is "stay at home and stay out of trouble" - which is a very powerful statement to a public leader.

**Q3:** Why would the righteous sages be willing to participate in a procedure which involved administering lashes - but not ostracism?

**YE:** Nidui is different from lashes in three significant ways: (a) There is a subjective component to \*Nidui\*, unlike lashes (either the violator transgressed or not); (b) \*Nidui\* is an ongoing reality - (see in Halakha 4 - social distancing etc.), whereas once lashes are administered, that process is complete. In fact, once the lashes have been administered, the offender is now "your brother" again (Mishna Makkot 3:15). © \*Nidui\* involves the entire community - they must know about it and must behave accordingly - unlike lashes.

As such, it is less of a "shame" for the scholar to have his colleagues sentence him to lashes - based upon proper testimony - and to get that over with - than to have them declare \*Nidui\*, with its subjective components and its far-reaching social implications.

Additional question:

**KB** ([Keith Bierman](#)):

What about R. Elazar b. Hyrcanus (oft praised as the cream of R. Yohanan b. Zakai's students) who was under a ban for much of his later years (the oven of akhnai, [BT Bava Metzia' 59b] etc.). What about Aher [Elisha b. Avuya - the apostate]?

**YE:** Regarding R. Elazar - Kessef Mishneh proposes that his ostracism was also a private one - or that this was an exceptional case and, in order to keep divisiveness from increasing among the Jewish people, he was publicly banned. I don't know that Aher was ever ostracized - but, if so, that is more easily explained. Since he was an apostate and an evildoer (BT Hagiga 15a-b), whatever protection we afford for sages would no longer be appropriate for him. In addition, following the reasoning above (at Q1), a private \*Nidui\* would not effect any of the desired results. Perhaps even public \*Nidui\* would be useless at that point.

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