

The public's right to know in liberal-democratic thought vs. The people's 'obligation to know' in Hebrew law¹

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Abstract

This study compares the codes of media ethics adopted by the PCC–Press Complaints Commission, the IFJ–International Federation of Journalists and the SPJ–Society of Professional Journalists based on the claim that it is the public's right to know, and examines the origins of this concept. A new approach is presented here which falls between the liberal-democratic approach on the one hand and on the other, the extreme ultra-Orthodox approach that claims that it is the public's duty not to know. This new approach which indicates that it is the public's duty to know has evolved from the analysis of Jewish texts from Biblical times and from the study of events in Jewish community life throughout the world. This novel approach is likely to effect a change in the contents of broadcasts and in the boundaries of media ethics.

Keywords

Hebrew Law
Right to know
Media Ethics
Communication ethics
Mass communication

This article compares various attitudes in regard to the people's right to know. We try to reveal the philosophical roots of this right and to show its application in three leading western codes of ethics. We follow this with a discussion of the Jewish ultra-orthodox attitude, which holds that it is the people's 'obligation not to know'. We then describe the approach of Hebrew law, which takes a stand between the two and says that it is sometimes the people's 'obligation to know'.

1. The public's right to know

It is customary among journalists to say that the right of the public to know provides the moral foundation for the freedom given to journalists to gather information and disseminate it freely. Since this expression was coined – by Kent Cooper, former editor of the news agency Associated Press (A.P) (Goodwin 1983: 9) – it has been used to justify a wide range of media activities, from covering deliberations in the law courts and election campaigns to investigative journalism that often involves impersonation and intrusion on privacy. There are those who tend to assume that this right gives journalists unlimited access to events, information, and the lives of ordinary citizens (Gauthier 1999: 197).

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2. Maciejewski & Ozar noted twelve different ramifications resulting from the public's right to know (Maciejewski & Ozar 2005: 123–126). They themselves have pointed out the comprehensive importance of this right as it affects the sense of duty of all citizens to help or at least not to hinder realizing this right (Maciejewski & Ozar 2005: 129). For this reason and in conclusion, they emphasize that the public's right to know, which is usually associated with the rights that are kept for journalists, is not their [the journalists'] sole property. The only reason they are actually entitled to it is that they are members of a democratic government (Maciejewski & Ozar, 2005: 136). Also, see Bok 1983: 254–258.
3. It should be noted that these are not the only opinions on this subject. For example, refer to Gauthier's (Gauthier 1999: 198) article for the writings of Barney, who is of the opinion that the right to know is a fundamental element in a participating society with the intention of creating a society that is consistent in its decision-making and that the foundation for these decisions is an intelligent one. Suitable and satisfactory information reaches the individual, creates heightened awareness about the different options

The significance of this right is multi-faceted and the ramifications numerous.² According to Goodwin, the significance of this right is that it gives the public the right to know what the government is doing, and the media implements this right on its behalf (Goodwin 1983: 9). Gauthier is of the opinion that in a democratic society the public's right to know grants citizens access to all relevant information concerning political, professional, and personal decisions crucial to the implementation of the First Amendment of the American Constitution (Gauthier 1999: 199).³

2. Justifications for the public's right to know: Defending freedom and utilitarianism

The right of the public to know is generally based on the work of several philosophers, including John Stuart Mill, in his books *Utilitarianism* (1863) and *On Liberty* (1859); Immanuel Kant, in *Foundations of the Metaphysics of Morals* (German 1785); and Alexis de Tocqueville, in *Democracy in America* (French 1835 and 1840), as many aspects of these works provide a strong philosophical foundation for the concept.

According to Mill, the sole warranted end for mankind, to individually or collectively interfere in the liberty of action of any of their number, is self-protection (Mill 1972a: 135). In any case, there is no justification for preventing the public, or those acting on its behalf, from doing something as long as that act does not harm the individual or the group. In this context, it is customary to quote Mill who says: '... the time, it is to be hoped, is gone by, when any defence would be necessary of the liberty of the press as one of the securities against corrupt or tyrannical government' (Mill 1972a: 141).

Although these comments were made in the context of freedom of thought and argument, Mill goes on to point out four different reasons that prove that the spiritual well-being of mankind needs to include freedom of opinion and the opportunity to voice it (Mill 1972: 180–181). However, they are correct as an observation, in principle, on the right of the public to express an opinion different from that of the government and to be publicly critical of it.

The principal boundaries of this liberty are determined by the test of 'utilitarianism': actions are right in proportion as they tend to promote happiness and wrong as they tend to produce the reverse of happiness. By 'happiness' is meant pleasure and the absence of pain; by 'unhappiness', pain, and the privation of pleasure (Mill 1972b: 257).

Mill's principle of utilitarianism justifies the public's right to know and the media's right to access information and to publish it, as well as certain actions taken by the media that ultimately serve the public. At the same time, this principle serves to limit the power of the press to cause harm. This interpretation leaves the ability to assess the value and the damage of their actions in the hands of the journalists. The benefit of this principle lies in the fact that adhering to it focuses attention on the social benefits of the media's activities and calls on the media to consider the possible detrimental effects of their actions while trying to benefit the society they serve (Gauthier 1999: 203).

Tocqueville presents a very clear picture of the place of the media as a critical purveyor of benefits, and the freedom afforded to the media as crucial to the defence of the weak, specifically in a democratic society. According to Tocqueville, in ages of equality every man naturally stands alone. Thus, at the present time, an oppressed member of the community has only one recourse for self-defence – he can appeal to the nation, and if the whole nation is deaf to his complaint, he can appeal to mankind: the only means he has of making this appeal is via the press. Thus the freedom of the press is infinitely more valuable among democratic nations than among others. It is the only cure for the evils that equality may engender.

Tocqueville believes that men living in aristocracies may, strictly speaking, do without the freedom of the press, but this is not the case for those who live in democratic societies. To protect their personal independence Tocqueville trusts not to great political assemblies, to parliamentary privilege, or to the assertion of popular sovereignty. All these things can, to a certain extent, be reconciled with personal servitude, but that servitude cannot be complete if the press is free – the press is the chief democratic instrument of freedom (Tocqueville 1946: 587).

Kant's thoughts reveal a different approach to non-benefit-based justification, which centres on the autonomy of the individual as the creator of a universal code of ethics. In his book *Foundations of the Metaphysics of Morals*, he makes a number of assertions about the place of freedom in human nature. As far as he is concerned, the concept of freedom is the key to the explanation of the autonomy of the will (Kant 1978: 73), and freedom must be presupposed as the property of the will of all rational beings (Kant 1978: 75). At the same time, he emphasizes that freedom is by no means lawless, even though it is not a property of the will according to laws of nature. Rather, it must be causality according to immutable laws, but of a particular kind (Kant 1978: 74).

These and other of Kant's writings contain justification for the opinion held by some individuals researching the media rights and those of its actions that serve the objective of creating an informed society for the purpose of making correct decisions. Nonetheless, this principle also places a number of limits on the way in which these objectives are realized. For example, impersonation and manipulation would be prohibited. On the other hand, absolute truth, accuracy, and fairness would be required as part of the media proceedings (Gauthier 1999: 204).

3. The public's right to know according to codes of ethics in journalism organizations around the world

The International Federation of Journalists (IFJ) does not mention anything about the public's right to know in the first clause of its 'Declaration of Principles on the Conduct of Journalists'. Rather, it states that the journalist's first obligation is to respect the public's right to know the truth: 'Respect for the right of the public to truth is the first duty of the journalist' (IFJ 1986). On the other hand, the American Society of Professional Journalists (SPJ) refers to the public's right to know in two different places in its code of ethics. Calling on journalists to act

that are available for decision-making. On the other hand, Fink describes the public's right to know in terms of duty, so while the First Amendment to the American Constitution grants the media the right to print the news freely, the public's right to know obliges the press to print the news.

independently, it states that: 'Journalists should be free of obligation to any interest other than the public's right to know' (SPJ 1987).

The British Press Complaints Commission (PCC)'s code of practice gives the public's right to know and the public interest the most weight. The preface states that: 'All members of the press have a duty to maintain the highest professional standards. This Code sets the benchmark for those ethical standards, protecting both the rights of the individual and the public's right to know' (PCC 1999). This being the case, the role of this code is to provide a balance between these rights – the right of the individual and the right of the public, since the natural rights of both are equal.

The code of practice ends with a section that deals with the public interest, which justifies and even requires that journalists expose different subject matter. From time to time, this (public) interest may even justify deviation from the rules of the code, for example, licence to impersonate or to pay witnesses. Along with other points, this section specifies those areas included in the public interest:

1. The public interest includes, but is not confined to:
 - i) Detecting or exposing crime or serious impropriety.
 - ii) Protecting public health and safety.
 - iii) Preventing the public from being misled by an action or statement of an individual or organization.
2. There is a public interest in freedom of expression itself.
3. Whenever the public interest is invoked, the PCC will require editors to demonstrate fully how the public interest was served. (PCC 1999)

4. From the public's right to know to the public's right to be entertained

The danger in exploiting the public's right to know begins to emerge in the shift from the public's right to know to the media's right to access and publicity (Gauthier 1999: 199). Although the public's right to know is a fundamental principle in journalism, its implementation is gradually eroding. Superior knowledge has been robbed of its place by inferior entertainment, and the latter has, knowingly or unknowingly on the part of the journalists, taken the place of the former.

When referring to this subject, Asa Kasher (Professor of Professional Ethics and Philosophy of Practice at Tel Aviv University) claims that the source of the problem lies in the large amount of entertainment material that is fed to us. Newspapers are supposed to entertain and television programmes are supposed to amuse, but the amount of entertainment material has to be reduced. It is not that entertainment for entertainment's sake is inappropriate. To the contrary, entertainment fills a different and important role. The inclusion of entertainment material in the newspaper or in other forms of media is not what creates the problem. Rather, the problem is created when entertainment criteria are imposed on informational material, op-ed columns and commentaries – material that is not

meant to entertain. It is unmistakably clear that in today's world entertainment governs and journalism is simply an offshoot of the entertainment business.

In Kasher's opinion, the outcome is a two-faced product. The entertainment side is inferior and of low quality; it is haphazard, shallow, inaccurate, and unreliable. In short, it has no value because of the irresponsible creative process. He qualifies his statement by saying that although this is not a general malaise, it is a very common phenomenon. Moreover, it seems that the situation is continuing to deteriorate (Levi-Barzilai 2005: 330–331).

These ideas are in line with the preface to the code of ethics of the American Journalists' Union, the SPJ:

Members of the Society of Professional Journalists believe that public enlightenment is the forerunner of justice and the foundation of democracy. The duty of the journalist is to further those ends by seeking truth and providing a fair and comprehensive account of events and issues. Conscientious journalists from all media and specialties strive to serve the public with thoroughness and honesty.

(SPJ 1987)

In other words, by their very acts, journalists will promote justice and democracy, and for this reason, they must chase the truth and expose it so it is of the people, by the people, and for the people.

In an ideal democratic world, people form their own opinions and their own worldview, and lead their lives accordingly, using them to change the world. Tabloid-style media, which is entertainment based, biased, negative, in love with itself, unrestrained, and irresponsible, does not help an individual to build a life and live it as a good citizen (Levi-Barzilai 2005: 345).

5. The ultra-orthodox community: The people's obligation not to know

In total contrast to western journalism that espouses the idea of the people's right to know, some are of the opinion that it is the people's obligation not to know, or, in a 'softer' version, that it is the people's right not to know. It can be said that the editorial staff of the ultra-orthodox newspapers are the extremists on this matter. According to Dudi Zilberschlag, publisher of the ultra-orthodox weekly *Bakehila*, there is a fundamental difference between the public's right to know and the approach of the ultra-orthodox press, which believes it is the right of the public to know as little as possible.

This fundamental difference creates a reality with totally different objectives. The ultra-orthodox press, in particular its daily press, professes to educate its public (Amior 2002: 29). However, in Levi's opinion, it reports on life as it should be and not on life as it is. Its journalists prefer writing about the desired norm and not about reality as it really occurs. Moreover, if the norm requires introducing a change into the reality, these journalists will do so without hesitation and sometimes in a coarse and clumsy manner (Levi 1989: 240).

4. Based on the Bible, which describes the discussion between Moses and Pharaoh about the plague of frogs.

And the river shall bring forth frogs in swarms, and these will go up and come into thy house, and into thy bedchamber, and upon thy bed, and into the house of thy servants, and upon thy people, and into thy ovens, and into thy kneading troughs (Exo. 12: 28).

5. Based on Isa. 4: 3.

This approach is evident in the information that does not get past the hurdles, which are in the form of the Spiritual Council and the Critic – the supervisory and censorship bodies who allocate the ‘Kashruth certificates’ for those items that will be published and reject those items or articles, in part and in whole, that must never reach their readers.

Editor of the Chassidic newspaper, *Hamodia*, Moshe Akiva Druke, explained his approach very clearly. In an interview with Amnon Levi, he said that:

[W]e reject the principle of the public’s right to know. It is becoming the slogan of the secular press – and this is completely unjustified. We will give out information up to the point where it will not be detrimental to our principles. This whole business of the public’s right to know is nonsense. In any case, the public cannot judge matters based on the information that it has to hand.

(Levi 1989: 247)

This ultra-orthodox worldview flows toward rabbis who are not ultra-orthodox, and often appears in wider forums. In an article entitled ‘The Public’s Right Not to Know,’ the rabbi of the city of Ramat Gan, Rabbi Yaakov Ariel, claims, somewhat radically, that human ethics are in dire straits, caught between two proponents who are holding them captive. One is ‘the public’s right to know,’ in which everything must be open and known; nothing is hidden from this right, like a plague of frogs croaking away loudly, making a sound that penetrates every empty space in the room where you lay.⁴ On the other hand, we have the proponent who claims the opposite: the ‘right to privacy,’ which claims that everything must be played down, even if this endangers the public. Further, when someone does finally decide to reveal himself, he will be known as a hero and they will tell him he is holy.⁵

The *Halacha* (Jewish Law) provides definitions that are more accurate. In either circumstance, if it endangers the public, downplaying privacy is a grave transgression; if there is no danger, then nothing, not even the smallest matter, should be revealed. Moreover, one must not repeat gossip about oneself. The public’s right is not only to not know but also to downplay what has been revealed that should have been concealed (Ariel 1998: 167).

6. Restraints on speech according to Jewish law

At first glance, after reading about the laws that forbid gossip and defamation, one is likely to think that Judaism restricts freedom of speech. Rabbi Moshe Ben Maimon (the Maimonides), the greatest rabbinical arbiter and commentator in Jewish history, who lived in Spain and Egypt during the twelfth century, wrote about the difference between gossip and defamation (*lashon harah*) in his book *The Code of Maimonides*:

Who is a gossiper? One who collects information and then goes from person to person, saying: ‘This is what so and so said’; ‘This is what

I heard about so and so.' Even if the statements are true, they bring about the destruction of the world.

There is much more serious sin than [gossip], which is also included in the prohibition – *lashon harah*, i.e., relating deprecating facts about a colleague, even if they are true.

(Maimon 1963)

Rabbi Yisrael Meir HaCohen [Kagan] (the Chafetz Chaim, also the name of his book), who lived and worked at the beginning of the twentieth century in the Lithuanian town of Radin, wrote the most comprehensive treatise on this subject to date, called *Chafetz Chaim – Desire Life*⁶, it sets out restrictions on freedom of speech as laid down in the *Halachah* and contained in fourteen positive and seventeen negative commandments that are found in the Bible when *lashon harah* is spoken. The contemporary challenge is to distinguish between what we are permitted to reveal and what we are duty-bound to make public.

7. The public's obligation to know in Jewish heritage: Justification for public exposure

On one hand, we have the liberal approach of the public's right to know, which, for different reasons, has lost much of its validity and significance. On the other hand, we have the ultra-orthodox approach that believes in concealing information because it is the public's obligation not to know. We consider here a third approach, based on a guiding principle in Jewish heritage regarding subject matter that is suitable for public knowledge: public attention is drawn to such subject matter not because of the public's right to know, but because of its obligation to be informed.

7.1. Reason number 1 justifying publication – Helping others

The root of understanding that it is the public's obligation to know is divided into two parts: the first is an expansion on the biblical concept that one must not stand by while the blood of another is spilled: 'Neither shalt thou stand idly by the blood of the neighbor' (Lev. 19: 16). One must come to the aid of a friend when the friend's life is in danger, and, for the same reason, must also offer to help to a friend by revealing relevant information. This is part of the trend to create a more civilized society.

The second reason is recognition of our social obligation based on *Halachah* to denounce the criminal elements living in our society and to rid ourselves of them. One way to achieve this is to publicly expose their sins and their wrongdoings. This judgment is based on our Biblical obligation to help a person whose life is in danger. Rabbi Yosef Karo, who lived in Spain in the 16th Century and was one of the most important *Halachic* arbiters in the history of the Jewish people, ruled on this matter in the *Shulhan Aruch*:

If a person sees a friend drowning in the sea, or if robbers are closing in on him, or a wild animal is chasing him, and the person himself can save his friend or employ others to save him, and does not do so; or if he hears that . . . they are planning to do him evil or to trap him; and if

6. The name is taken from the verse: Who is the man that desires life, and loves many days, that he may see good? Keep thy tongue from evil, and the lips from speaking guile (Psa. 34: 13–14).

he does not tell his friend . . . of such things, then he has transgressed.
Neither shalt thou stand idly by the blood of the neighbor.

(Lev. 19: 16; *Shulhan Aruch, Choshen Mishpat*, Ch. 426, Section A)

Maimonides concluded that the biblical commandment, 'Neither shalt thou stand idly by the blood of thy neighbor' (Lev. 19: 16), applies even to economic matters, and in his *Book of Commandments*, he included the following among the 613 Commandments mentioned in the Torah:

Negative Commandment 297: By this prohibition, we are forbidden to neglect to save the life of an Israelite whom we see in danger of death and destruction and whom it is in our power to save . . . and we are in a position to thwart his intention or to save the threatened person from harm. In such a case we are forbidden to stand aside and refuse to come to the rescue by his words, Neither shalt thou stand idly by the blood of the neighbor.

(Lev. 19: 16)

The Sages say that this prohibition also covers the case when one withholds evidence, since he sees his friend's money being lost and is in a position to restore it to him by telling the truth.

(Maimonides (1963))

In other words, Maimonides regards this aspect of the biblical prohibition not to stand by the blood of another not only as a concern for the spilling of his neighbour's blood but also as a concern for the latter's economic well-being.

Although these things are clear, at the end of his work, in the "Rulings on Gossip" (Rule I, sub-clause a), the Chafetz Chaim warns about how easy it is to slip into uncontrolled use of this permission. He stipulates that the following conditions (seven in total) must be met: direct verification of the information; check on the information and its certainty; approach the person doing the misdeed before exposing him; a restrained and fair report; beneficial intention devoid of petitions; publication is the last option; and control of future damage that might arise from the publication.

7.2. Reason number 2 justifying publication – 'To Taint in the Eyes of Others the Names of Those Who Have Transgressed'

Another justification for revealing information to the public, even though it seemingly involves violating the prohibition against defamation and gossip is 'to taint in the eyes of others the names of those who have transgressed'. The Chafetz Chaim explains, in the rules on Defamation (Rule D, sub-clause 33) that this ruling is based on the Mishnaic tractate Yoma. The Mishnah mentions the names of those who contributed to the building of the Temple, stating that their names were praised. It then notes a number of individuals who received a dishonourable mention. The common denominator for the latter group was their refusal to share their professional knowledge, a family legacy, for practicing certain crafts in the Temple:

And these were mentioned to their shame: they of the house of Garmu would not teach anything about the preparation of the showbread; they of the house of Abtinas would not teach anything about the preparation of the Incense; Higras, son [of the tribe] of Levi knew a cadence in song but would not teach it; Ben Kamzar would not teach anyone his art of writing. Concerning the former it is said, 'The memory of the righteous shall be for blessing'; concerning the others it is said, 'The name of the wicked shall rot'.

(Mishna Yoma, Ch. 3, Mishna 11)

The Talmud describes how members of the Garmu and Abtinas families tried to explain to the Sages why they refused. Despite this, it was decided to continue mentioning their disgrace for generations to come. In light of this, the Chafetz Chaim concludes that it is essential to publish the names of those who have transgressed in the eyes of the masses: 'For this reason it is certainly a command to admonish them [publicly], revealing their transgressions for all to see, thereby tainting in the eyes of others the names of those who have transgressed' (HaCohen 1999: D 16).

8. When is it permitted or required to publish negative information about a person?

Analysis of many sources in Jewish law and the study of the process in Jewish communities throughout the world during the course of history have generated a list of things that we are morally obliged to make public even though it will reveal negative information, embarrass the person concerned, and involve defamatory comments and the spreading of gossip.

8.1. Helping the individual

The first item on the list is publication of information in order to help an individual and to censure those who are harming him. According to the Chafetz Chaim, in such circumstances there is nothing improper in saying something defamatory:

If one sees a person who has done something unjust to a friend, such as stealing from him, exploiting or hurting him, and even if the victim does or does not know about such acts; or if the perpetrator humiliated his friend, made him sad or cheated him; and the person who sees him knows for sure that the perpetrator has neither returned the stolen item, paid for the damage, nor apologized or atoned for his actions, even if he is the only one that saw the perpetrator, he is permitted to tell others in order to help the victim and publicly censure the perpetrator.

(*General Rules of Defamation*, Ch. 10, Section A)

8.2. Publication to impose social norms

Lazersfeld and Merton note the role of the media in promoting crusade-style public exposure. The crusade may affect the public directly, focusing the attention of the hitherto lethargic citizenry

(Lazersfeld & Merton, 1971: 564). Examples of such a role can also be found in Jewish tradition.

The objective in publicly denouncing sinners, a practice that began in biblical times, was to deter others from sinning and to draw conclusions about their own behaviour. One of the well-known incidents in which conclusions had to be drawn in light of another person's punishment concerns Miriam. Miriam is punished, according to some biblical commentators, after she defamed Moses. One of the claims against the spies that Moses sent into the Land of Israel was that they did not manage to derive any lessons from Miriam's punishment (Midrash Tanchumah (Buber), Parashat Shelach, Section *Vav* [6]). Even so, publicizing Miriam's transgression and her punishment was not directed solely at the spies, but was intended as a warning to all (Maimonides, *Laws of Uncleaness of Leprosy*, Ch. 16, par. 10). This understanding of the situation is based on the religious assumption that a person should mend his ways as the result of evidence of punishments that come his way: 'If a man sees that torment is coming his way, he should contemplate his previous actions' (*The Babylonian Talmud*, Brachot Tractate, 1938: 5A).

8.2.1. Punishment in Jewish communities

Public identification of sinners is not solely the realm of biblical heroes; it has been part of Jewish community life throughout history. From the ninth century CE onward, it was customary in Jewish communities to punish those who did not abide by the accepted norms. The usual punishments and fines among the people of Israel after completion of the Talmud can be divided into three categories: physical punishments; honour-related and rights-related punishments; and monetary punishments (Asaf 1922: 18). Physical punishments included capital punishment, limb amputation, flogging, imprisonment and detention (of varying degrees of severity), branding with a mark of disgrace, and shaving the head (Asaf 1922: 18–31). The honour-related punishments included ostracism and boycotts; expulsion from the synagogue, the community, or the country; public censure; public announcement of the sin or posting of a sign about it in a central location; and cancellation of the right to elect and/or to be elected to any position in community institutions (Asaf 1922: 31–41). Monetary punishments were the most common and included fines for differing amounts or a prohibition to enter into business transactions for a specified period (Asaf 1922: 41–44). The severity of the punishment depended on the seriousness of the sin and the degree of judicial autonomy that the Jewish community enjoyed in that particular place and at that particular time.

8.2.2. Public announcement concerning criminals within the Jewish community

The honour-related punishments that were customary in Jewish communities were public censure and public denunciation of the sin, both of which were particularly important. There were two levels of such public revelations: if the person committed a serious sin, the disgrace

was publicized extensively. An example of this can be found in the regulations for the messengers of the communities in Castile, drawn up by the Chief Rabbi of Spain, Rabbi Avraham Benbenisti, at a meeting in 1432. At that meeting it was determined that:

If he [the informer] evades all punishment in such a way that it is not possible to put him to death, brand him with a mark of disgrace or to flog him, then he shall be denounced in all the communities as an informant.

(Asaf 1922: 89–90).

The explanation for this move is, 'so that he will be different and all people will keep away' (*loc. cit.*).

Adulterers were also denounced publicly, as indicated in a ruling issued by Rabbi Hai Gaon, Head of the Pumbedita Academy in Babylonia during the transition period from the tenth to the eleventh century. The ruling refers to a pregnant woman who claimed that a particular man fathered her child – the same man who had been suspected of such acts a number of times in the past. Rabbi Hai Gaon declared, 'And that man must be flogged and chastised, and his disgrace announced to all' (Teshuvot HaGaonim, p. 4A, Section 16).

The rabbis usually reserved such severe punishment for individuals who broke the cardinal rules of the community; in less serious instances they were generally satisfied with an announcement made locally in the synagogue where the transgressor prayed. For example, in the Altona-Hamburg community in Germany, in the year 1786, they ruled that:

No man or woman shall go to the Opera House, and those that transgress and go – if he is a member of the community, he will not be employed in any position within the community ... and their sins will be publicly denounced.

(Asaf 1922: 116)

8.3. Exposing charlatans and flatterers

Charlatans constitute another target that must be denounced publicly. The source of the law regarding the denouncing of flatterers is found in the Babylonian Talmud, where this matter is presented as a clear and concise commandment: 'One should expose hypocrites to prevent the profanation of the Name [of God]' (*The Babylonian Talmud*, Yoma, 1938: 86b).

Rabbi Shlomo Yitzhaki (Rashi), one of the greatest commentators on the Bible and the Talmud, who lived in France during the eleventh century, explains in his commentary that this does not refer to flatterers in the modern sense of the word, but rather to people who behave insincerely: 'They are evil and show themselves to be righteous.' At a later stage, Rashi gives a double interpretation to this idea: first, it is liable to lead to blasphemy if we do not know their true nature because people learn both the good and the bad from the actions of that person,

as it is assumed that he is righteous. Moreover, many people think that he is a righteous person, so when he is punished they wonder about the integrity of divine justice:

If someone is acquainted with his actions – he is commanded to make this public to prevent blasphemy, because a man does learn from his actions because he is sure that this person is righteous. Moreover, when divine punishment is meted down upon him, mankind will say: how did his righteousness help him.

(Rashi, Yoma, p. 86b)

Thus, if a person is exposed to the actions of a charlatan, such as someone pretending to be a rabbi or a kabbalist with a righteous face, while his actions are negative or criminal, such as embezzling from those who visit or pestering them, it is permitted and even desirable to make these matters public. If the person fears doing this directly, he can go to a third party to ensure that it is done.

8.4. Investigating candidates for public office

In Jewish tradition, the leaders perceive themselves to be servants of the people. Moses considered this point when he was pondering about his Lord:

Have I conceived all this people? Have I begotten them, that thou shouldst say to me, carry them in thy bosom, as a nursing father carries the sucking child, to the land which thou hast sworn to their fathers?

(Num. 11: 12)

These thoughts were echoed in the first century in the Land of Israel in the writings of Raban Gamliel to his disciples Rabbi Elazar Hassama and Rabbi Yochanan Ben Gudgeida, who refused to accept his offer of a nomination to public office: 'Do you imagine that I offer you rulership? It is servitude that I offer you!' (*The Babylonian Talmud*, Horayoth, 1938: 10a–10b).

The perception of the ruler as a servant of the people helps us to understand the reality in which the prophets dared to criticize the monarchy and the different elite groups in the society harshly and publicly. Their criticism of the kings of Israel and Judea throughout the generations is based on the Torah. When the king does not heed the prophet, he is transgressing the biblical prohibition: 'The Lord thy God will raise up to thee a prophet from the midst of thee, of thy brethren, like me; to him you shall hearken' (Deu. 17: 15). Maimonides even considers this prohibition to one of the commandments in the Torah (Book of Commandments, Commandment 172) and was ruled as *Halachah* by Maimonides (*Laws which are the Foundations of the Torah*, Ch. 7, Par. 7; Ch. 8, Par. 2). For this reason, one can find many prophets who have publicly criticized injustices against the weak and deviations from ethical norms, despite the heavy personal price that they paid (Jeremiah 26; Amos 12: 10–17).

It is rare to find any *Halachic* commentators who are of the opinion that the right of the public to know has a place in *Halachic* literature. However, Rabbi Ariel claims that there is evidence of this right within the *Halachic* definitions of 'making defamatory remarks to bring about benefit'. In his opinion, publicizing the actions and omissions of the government allows the public to exercise its right to influence the policy that the government adopts. Consequently, according to his concept, a journalist who encounters corruption or policy that he thinks will hurt the country and/or its citizens is sometimes required to act to repair the distortion, specifically by making it public. Moreover, even if there is no immediate benefit in making certain information public, the mere fact that public figures are aware that someone is taking note of their actions and looking out for the public good is enough to deter them from doing what should not be done. It is, however, important that they adhere to the seven conditions listed by the Chafetz Chaim for making defamatory remarks for beneficial reasons (Ariel 2001: 48–49).

9. Conclusion

The same ideological foundations that form the basis of conscious awareness about the right of the public to know were given voice in the principal ethical standards set around the world. However, reality dictates a different type of journalistic activity, which frequently results in the public's right to know being overshadowed by the public's right to be entertained.

In contrast to the two extremes – the liberal-democratic view that it is the public's right to know and the belief that it is the public's obligation not to know – a new approach has emerged based on the analysis of Jewish texts beginning with those from biblical times. From these studies, we can conclude that according to Judaism there is information that is supposed to come to the public's attention because of the public's obligation to know about it. It is the public's obligation to know about those who need assistance and to help them, to condemn the criminals and charlatans who live among us, and to investigate candidates running for public office and those currently holding such positions.

This worldview insists that rather than having the right to know, it is, in these cases, the public's duty to know; this is a powerful concept that can well affect media content, as well as the way in which the boundaries of journalistic ethics are defined.

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