

Not Rabbis

by: Rabbi Jeremy Rosen

A New York court has decided that a rabbi who has had a sexual affair with a congregant cannot be sued for betraying his professional standards, because rabbis are not proper professionals!!

In a unanimous verdict, judges dealing with a claim against an Orthodox rabbi for sexual abuse said that rabbis do not have a fiduciary duty as with professions such as therapists or lawyers. Despite the fact that this rabbi abused his position to counsel sexual therapy involving himself, and that there have been other complaints, they refused to allow the woman to sue the rabbi. Most professions forbid sexual relations between professionals and clients where vulnerability is an issue. It seems that a job involving "reverential deference", in which one treats the clergy with particular trust, allows them to mess with adults, who ought to know better! (Thankfully, this does not apply to children, who do not. Hence, child abusers are now being more rigorously prosecuted and sued.)

In another situation, The Jewish Week played a part in uncovering serial sexual abuse by a charismatic American-born rabbi who was dismissed from his post at Bayit Chadash in Tel Aviv, after several congregants lodged complaints with the police. He actually issued a statement apologizing and said he needed treatment and disappeared. Now he has set himself up in Colorado as a New Age rabbinic guru. That in itself would not be a problem; after all, we allow Teshuva ("repentance"). But when he declares that his apology was given under duress and these things never happened, he seems to be in dangerous denial and therefore likely to abuse again.

I cannot tell you how many cases of rabbis misusing their position in sexually inappropriate ways I have encountered over the years of my ministry. Most were unsatisfactorily settled in the way the Catholic Church once dealt with its pedophiles—move them on and keep quiet. And as with rape, it is very difficult to get a conviction.

So what is a rabbi then? Some sort of exploiter of the vulnerable who can get away with it because he has no professional standing?

Outside of the rabbinate, they try to differentiate between a doctor-patient relationship after hours as opposed to within, or university lecturers after graduation. The whole issue of "unequal power" in relationships is an important emerging issue in thinking circles, where one party uses his position or power to take advantage of a weaker subordinate.

But where we are dealing with consenting adults I question whether one can legislate for this. The fact is that marriage in general is and has always so often been between "unequals", either in financial, power, age, beauty, or otherwise. (Didn't Kissinger once declare that power was a great aphrodisiac?) One upon a time most rabbis were married and stayed that way.

Nowadays this is less and less the case. So why not marry a congregant? What is appropriate?

I have seen the boundaries transgressed, in every denomination, and tremendous emotional damage has resulted. With experience I am convinced it must be absolutely forbidden, if not by law then by convention, for a clergyman to engage in sexual relations with someone he is counseling, whether in hours or after. It is too dangerous, both because of the situation and the consequences. There is a lot of abuse of varying types and degrees going on and something needs to be done. But what?

Many American state courts have ruled differently than the New York judges, but I think their judgment raises an important issue. You see, in practice nowadays, a rabbi is anyone who says he is. Most rabbis, certainly most Orthodox ones, have no professional training. It was one thing when rabbis were simply scholars who knew the laws and you referred to for an opinion on Jewish Law, and in the main they were all self-employed and financially self-sufficient. Then there were miracle workers, mystics, Baalei Shem, rebbes, whose expertise was not the sort you could legislate for. Somewhere along the line, rabbis began to imitate Christian clergy and morph into counselors, confessors, and a cheap alternative to therapists, as well as congregational functionaries who took it up as a paid career. That was where professionalism should have appeared on the halachic radar.

There are no universal professional standards for rabbis, even though there are now colleges which do give some training in counseling and pastoral affairs. Therefore, all I can say is Caveat Emptor.

In previous eras it might not have been relevant to legislate halachically for professional standards. Now it is. There has been too much monkey business. Instead of spending all their time and energies legislating for minutiae, I would like to see more religious authorities tackle the issue of professional conduct in the rabbinate. At the moment it seems to me that anything goes, and I do not only refer to sex.

If Judaism does not deal with this issue and in keeping quiet allows some rabbis to tarnish God's name, it will come back to haunt us. We already have a general term for this. It is called Chillul HaShem, the Desecration of God's "good" Name. It needs to be applied specifically.