

Sarah Palin and the State of Halachic Discourse

By [Yitzchok Adlerstein](#), on January 16th, 2011

Last week, Sarah Palin went from looking very bad to looking very victimized. How and why that happened may shed some light on the conduct of an internecine dispute in progress on organ donation and halachic criteria for ascertaining death.

Angry fingers pointed to Palin in the aftermath of the Tucson shootings. Her map had targeted – literally – Gabby Giffords. Moreover, the rhetoric of contempt churned out by the political right had surely contributed to the climate that produced the killer.

Or so they said, “they” being the expected critics, like the New York Times and Keith Olbermann. Within a short period of time, it became clear that the shooter dwelt in a fantasy world in which the government exercised mind control through bad currency and conniving grammar. The books he read were not screeds of the political right. He didn’t pay much attention to popular media.

Palin, like her or not, could not be blamed for this one. Her critics lost the moral high ground, and looked like shameless opportunists. Their initial attacks on her were so off-base, that they left room for people to wonder whether the critics were driven more by desperation than by unvarnished malice. Unable to come to grips with an America in which Palin and the Tea Party could be seen as ascendant forces, these critics seize for themselves the moral license to stop at nothing to quash their opponents. If you can’t convince them, then whipping up popular hysteria against them is the next best thing.

The Orthodox community has more at stake in the so-called “brain death” controversy than in the etiology of Jared Lee Loughner’s delusions. Rabbi Dov Fischer discussed some of the issues [in an earlier piece on Cross-Currents](#), including the impropriety of an online petition in favor of the “brain death” criteria. Rabbi Fischer correctly bemoaned the fact that a group of rabbis would be setting fires of public criticism of the Torah community, rather than putting them out. (By way of contrast, a friend of mine was asked by a leader of a state legislature about Orthodox attitudes towards organ donation, having read some disturbing material in the popular press. My friend, who has good background in both the halachic and medical aspects of the issue, sat down with the legislator, and explained the traditional point of view, after which the politician “got it,” without rancor or resentment.) I would go further than Rabbi Fischer. Calling a position that is embraced by rov minyan v’rov binyan of serious halachists “morally untenable” is nothing less than morally untenable!

Beyond the ill effects of this petition, I believe it to be hashkafically still-born. Halacha has to be decided by halachic debate, not by popular acclaim. The RCA report was put together painstakingly by a group of fine young talmidei chachamim, who did their due diligence in preparing the sugyas, studying the medical issues, and interviewing key personalities. Halacha thrives on – insists upon – debate. Those who champion neurological criteria of death rather than cessation of cardio-pulmonary activity should point to any errors they see in either the lomdus of the other side, or its grasp of the medical realities. [An online petition](#) offers none of this.

Moreover, scanning the list of signatories, we find many fine pulpit rabbis, but no names at all associated with the serious conduct of halachic debate. What, exactly, does it mean when someone signs a petition affirming the validity of a halachic position when he is not in a position to either defend or critique it? (The starting lineup at the MLB All-Star game is determined by the input of pros – the managers and players – and popular sentiment. This is defensible. But would it make sense for the fans at Fenway Park to vote for Nobel laureates in chemistry?)

At least one of the better known signatories opens a window to his mind, in a letter he sent out to a mailing list. “We have received a good deal of press, which will hopefully do some good in shaping the public perception of the permissibility and mitzvah of organ donation...Please urge your local rabbi and other rabbis that you know to consider signing on as well. ... You can be part of this important effort to change the community’s perception and to help save lives!”

Will we see popular campaigns and petitions that will militate to accept minority opinions, or decide between disputes between Rishonim, in other areas? Shall we place conversion standards, or women’s hair covering, or even the acceptability of sherry casks in the docket of popular opinion? Is this the way halacha is done? Do people who would like to see lenient decisions in some of these areas wish to see the demise of halachic process as we know it?

I pose the question with more pain than facetiousness. I do not believe that there is a campaign afoot to destroy halacha from within. I do, however, believe that the Orthodox world has already split into two camps regarding its assumptions – in some cases, I would be charitable and suppose that they are unconscious assumptions – about halacha. I also believe that when they cannot marshal enough traditional halachic strength to win an argument that they get desperate, just like Krugman and Olbermann.

I have [written about these two camps elsewhere](#). Briefly, the process of halachic decision that we see in centuries of response literature is a search for evidence. Halachic arguments, which require a good deal of background to formulate in the first place, are not accepted unless they can be supported by evidence. When competing arguments are presented, we try to weigh the evidence. (We will require less evidence to satisfy ourselves regarding a rabbinic law than one that is d’orayso; we will require the most evidence in the weightiest matters – like organ donation, where taking an organ too early is a violation of the stricture against murder.) This was always called “birur” and “leevun” of halacha – for good reason. You arrived at a conclusion by way of best-fit with the internal evidence of the sugya.

We see in an increasing number of articles and blog posts a very different process. There are rabbis – never ones who have demonstrated stellar understanding of complex source material – who believe that halacha is about process, not finding truth. All halachic “voices” can be heard, so long as what they say is couched in the language of rabbinic source material. Once they are heard, each local rabbi decides on the basis of perceived need and his own understanding of overarching morality which voice should be heeded. I underscore that the voice heeded is chosen through external need, not though the internal consistency of that voice. (Ironically, when advocates of this approach cite their minority opinions, they remain oblivious to the fact that the authors of those opinions did try to the best of their ability to demonstrate the attractiveness their positions by adducing evidence from within the sugya!)

I believe that this approach is dangerous and counterfeit. Many of its advocates, not surprisingly, come from Orthodoxy’s far left. They are overrepresented as well on the petition. If I am correct, it may make it easier for those who have to decide whether or not to keep the YCT/IRF/far left axis within the Big Tent of Orthodoxy, or whether it is time to civilly show them the door.

In terms of the way they conceive of halachic process, they may have already walked out on their own.

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6 comments to Sarah Palin and the State of Halachic Discourse

Koillel Nick
January 16, 2011 at 1:14 pm

Perhaps they learned to do that from us. We, Charedim should take some blame for this. Piskei Dinim are placed all over Jerusalem in paskevillim, Yated Neeman, and all the rest of our newspapers and in America as well. Instead of learning sugyas, and having a proper debate within Torah lishmah, we have all the hot button issues (Hetter Mechira, Giyurim, Sheitlach, status of brain death) paskened for us under the banner of Daas Torah. One who argues is arguing against the Shechina and is an apikores. The sugya has become irrelevant.

Bob Miller

[January 16, 2011 at 1:22 pm](#)

Rabbi Adlerstein wrote, "Her critics lost the moral high ground, and looked like shameless opportunists."

Her critics were always shameless opportunists. They never occupied any moral high ground except in their own fantasies and propaganda.

Likewise for pseudo-halachic opportunists, who look first and foremost to chip away at our Mesorah. Their game was evident from day one despite all attempts at obfuscation. Their modus operandi is to create the appearance of form and the appearance of substance, hoping our ignorance and our lazy skepticism about true halachists are too deep to see through this sham.

dr. bill

[January 16, 2011 at 3:10 pm](#)

two points:

I wonder if other than neturei karta fanatics, there are any to the right who are candidates to be excluded from the orthodox tent? To pick one group – those who disrespect the legitimacy of a psak or the hashkafa of an acknowledged Gadol. (We were treated to a text-book example just this morning.) I fully respect one's right to disagree, but to attack a Gadol over his psak/hashkafa seems to me to be as much grounds for expulsion as say teaching at YCT. Personally, i would expel neither, but those who delegitimize the individual (not just the psak/hashkafa) would be my first candidates for expulsion.

I do not believe that every last halakhic ruling is by necessity moral/ethical. it is well known that this was the view of various gedolai yisroel, who declared that we submit to halakha even where it violates ethical norms.

BTG

[January 16, 2011 at 3:42 pm](#)

I disagree with your assertion that Palin's critics were wrong. Sure, the killer was a mentally deranged lunatic and had no direct connection to Palin or anyone else. However, what Palin and the rest of the right-wing media have done is create an atmosphere that mainstreams paranoia. When Palin and Glenn Beck et al. attack the healthcare bill not on its content but on made-up distortions like the presence of "death panels", or when people attack the president because they think he's a rabid socialist or Kenyan Muslim, then they legitimize a toxic discourse that says anything goes. So when someone is truly mentally ill and harbors delusional thoughts, he can just fit in with the rest of the crowd and adopt the view that appears daily on talk radio and nightly on Fox News.

[YA - But there is no evidence - none - that this happened. All the evidence points to someone who was oblivious to what was said on Fox News, and could not have cared less whether his delusional thoughts fit in with anyone else's.]

Ori

[January 16, 2011 at 8:08 pm](#)

BTG, so who created the toxic discourse for the attempts to assassinate FDR, Truman, Kennedy, Nixon, Ford, and Reagan?

Tziki kedera

[January 17, 2011 at 12:13 am](#)

dr bill ...when and if ROY writes his response your comments will be in place...until then we have only the shulhan aruch which requires kabalas torah and mitzvos...