

Privacy

(From Exploring the World of Judaism)

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This morning we are talking about the issue of privacy in a very contemporary context, but let's take a moment to step back and consider what Jewish tradition has taught on this issue.

Privacy issues are discussed in our tradition in three contexts: the right to confidentiality, the right to privacy in one's home, and *hezek re-iyah*, the idea that being observed is an infringement on one's human dignity.

Confidentiality is explored first as an issue of speech. If you say something to a friend or neighbor, may they assume that what you said is in the public domain and can be repeated? The Jewish answer is no. From a verse in the Torah, the rabbis derive the lesson that you may not repeat what you have been told without specific permission. Even if you are repeating something that is true, doing so is considered *lashon harah*, wicked speech, which includes not only slander but also merely sharing information that is not someone else's business. The rabbinic literature includes an extensive discussion about how information can be damaging to someone else, even if it is not negative in any way or untrue. For example, information that a person was in a particular place at a particular time or spoke with a particular person could be damaging and should not be repeated without permission. The exception is when information you have might

be important to a decision being made, such as when a person is about to get engaged or is about to hire someone.

This concept later developed into a ban on reading other people's mail that was instituted in the Middle Ages. This *takanah* of Rabbeinu Gershon, who lived from 960 to 1040, gets credit for contributing to the development of sophisticated trade among Jews scattered around the Mediterranean, trade that depended on the exchange of confidential documents.

In addition, entering someone else's home or even your own home unannounced was considered problematic. The Bible refers specifically to a debt collector not being allowed to walk into the home of a debtor to collect their debt, but this is extended in various ways. In contemporary discussions, this seems to relate to wiretapping and other forms of home intrusion, particularly if no notice is given.

Hezek re-iyah traces its roots back to the understanding of a well-known verse from Balaam's Blessing of the Jewish people. *Mah Tovu Ohalechah Yaakov*: "how goodly are your tents O Jacob." What was good about the tents? It was the way they were arranged: staggered, we are told, so that no one could see into his neighbor's tents. This protection from being seen is not related to fear of curses or even to times when one is doing something on the cusp of being unacceptable. Rather, this type of privacy is a right of every person and relates to human dignity. In the development of *halachah*, it means that a neighbor can be compelled to contribute to the building of a fence and that there are limitations on the opening of new windows. *Hezek re-iyah* is not restricted to one's home, but also covers

more public areas such as yards and gardens. Today's *re-iyah* would raise interesting issues related to the placing of surveillance cameras and microphones in the *rishut harabim*, the public domain, where they might infringe on individual privacy.

Finally, in Jewish law the responsibility for the protection of privacy is not placed on the individual but on the community. In a modern parallel, this principle might allow for legislation to limit infringements on privacy.