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## **Leave Your Stereotypes at the Door: The Importance of Context in the Halls of Congress and the Garden of Torah**

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## LEAVE YOUR STEREOTYPES AT THE DOOR: THE IMPORTANCE OF CONTEXT IN THE HALLS OF CONGRESS AND THE GARDEN OF TORAH

*Rabbi Michael Levy*

### I. PROLOGUE—TWO DISABILITY PERSPECTIVES

Many of us dozed during the December 9, 2019 Trump Impeachment Congressional hearings. Shortly after 11 AM we heard: “Point of order, I can’t see the screen!”<sup>1</sup> The speaker was Representative Matt Gaetz, whose low vision made it impossible for him to read material projected onto his screen. His “point of order, point of order” outbursts continued until technicians fixed the problem.<sup>2</sup>

About four years ago, Roi Schiffman, a wheelchair user, was drafted into the Israel Defense Force.<sup>3</sup> He completed his mandatory service and continues to be available for reserve duty. No one ever heard him wail “Point of order, I can’t walk!”

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<sup>1</sup> See Rabbi Michael Levy, *Point of Order: A Disability Awareness Moment in Congress*, N.Y. JEWISH WK. (Feb. 18, 2020, 7:06 P.M.), <https://jewishweek.timesofisrael.com/point-of-order-a-disability-awareness-moment-in-congress>.

<sup>2</sup> Forward-looking rehabilitation and advocacy organizations encourage children with disabilities to begin managing their disability-related needs even before they enter high school. Adults who acquire disabilities also learn to independently manage their disability-related needs. For example, a person who has a visual impairment would learn to anticipate that he might need adjustments made to his computer screen so that he could view all the material that was projected onto it. It should be noted that the Federal Government has a procedure through which constituents and other visitors can request accommodations. While there is no mention of the specific difficulty that Mr. Gaetz encountered, he and/or his staff, given his visual disability, should have had an ongoing relationship with those responsible for providing accommodations. Such a relationship would have minimized or eliminated the difficulties Mr. Gaetz expressed in his December 9, 2019 continual “Point of Order” statements. See *Accessibility*, U.S. HOUSE REPRESENTATIVES, <https://www.house.gov/accessibility> (last visited Sept. 29, 2020).

<sup>3</sup> *How an Israeli with Cerebral Palsy Enlisted in the IDF*, JERUSALEM POST (Feb. 10, 2019), <https://www.jpost.com/israel-news/how-an-israeli-with-cerebral-palsy-enlisted-in-the-idf-580213>.

Underlying these two disability perspectives is a difference in context. In one context, people with disabilities perceive themselves to be, and are perceived by others to be, as part of the fabric of society—with the rights and responsibilities that we all share. In the other context, people with disabilities perceive themselves to be, and are perceived by others to be, as a separate and often isolated group in society, with obligations and responsibilities that are inferior to those of non-disabled individuals of the same age and background.

It is not surprising that those of us with disabilities who choose, or are subjugated to, the latter context often live less meaningful and productive lives. What is surprising, which is discussed in this article, is the persistence of harmful stereotypes that belie the best that the halls of Congress and the Garden of Torah have to offer as models of integration.

On the one hand, we who have disabilities are truly grateful for the many governmental entities and private secular and religious organizations which have served us over the last few generations. We have come a long way since the days when people with disabilities were isolated, institutionalized, or hidden even in their own homes.

On the other hand, although most individuals and organizations who assist us mean well, their beliefs, statements, actions, and inactions sometimes have the effect of harming us. “*Al Ta-mod al dam rayecha*,” do not stand idly by when your companion is suffering,<sup>4</sup> must be invoked.

As was mentioned earlier, context underlies beliefs, statements, actions, and inactions. For purposes of contrast, one context is referred to as homocapable. The other is referred to as “hypocapable.” Respectively they mean “equally capable” and “less capable,” and signify not the actual strengths and limitations of people with disabilities, but rather the *perceived* strengths and limitations of people with disabilities.<sup>5</sup>

Homocapable indicates that a person with a disability perceives himself<sup>6</sup> to be, and is perceived by others to be, a mindful adult no different from non-disabled adults. He freely chooses his identity,

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<sup>4</sup> *Leviticus* 19:16.

<sup>5</sup> This terminology is neither used nor endorsed by Yad HaChazakah, the Jewish Disability Empowerment Center, whom I serve as President. It is my privilege to serve as President of “Yad.” For more information about the Jewish Disability Empowerment Center, see YAD HACHAZAKAH, <http://www.yadempowers.org/>.

<sup>6</sup> I use masculine pronouns, but I am mindful of all genders and gender identities.

accepts responsibility for his actions, selects and pursues life goals, and is actively involved in any discussions concerning himself. He speaks for himself in whatever modality works best for him—signing, emailing, adaptive communication devices, etc. Similarly, he handles information through the modality that suits him—email, telephony, TTY, interpreter phones, or in-person conversations.

Whenever possible, he himself chooses the organizations which provide service to him, and interacts with them not as a “disability category” (i.e., just another autistic adult), but as the unique person that he is. His particular personality, preferences, strengths, and limitations take center stage. He advocates to ensure that the individuals and disability organizations that provide services to him meet all applicable standards set by the Americans with Disabilities Act, the Fair Housing Act, and Twenty-First Century Communications and Video Accessibility Act of 2010, as well as state and local laws. He advocates to ensure that the board of his service provider is responsible to its clients, answers their inquiries in a timely manner that does not involve portals that they are unable to use, keeps records of their inquiries as do customer-friendly establishments, and understand that, if at all possible, they and not their caregivers voice their concerns. He prefers service providers who have policymakers, staff, and board members with disabilities.

He has learned from the playbook of other minorities that to achieve equality in the workplace, in public accommodations, transportation, and physical and communications accessibility, he may need to step out of his comfort zone and engage in civil disobedience.<sup>7</sup>

He knows that no health professional, educator, lawyer, or clergyman can keep pace with new technology and techniques that can improve his life and takes responsibility for investigating inventions and advancements that occur almost daily.<sup>8</sup>

He welcomes questions from curious children whose parents may try to hustle them away, understanding that children innately have the capacity to accept him for the total unique person that he is.

<sup>7</sup> See generally CHAVA WILLIG LEVY, *A PEOPLE'S HISTORY OF THE INDEPENDENT LIVING MOVEMENT* (1988).

<sup>8</sup> See Olivia Rudgard, *Elon Musk Reveals Functioning Brain-Reading Implant Neuralink in 'Healthy' Pig*, TELEGRAPH (Aug. 29, 2020, 12:39 A.M.), <https://www.telegraph.co.uk/technology/2020/08/28/elon-musk-reveals-functioning-brain-reading-implant-neuralink/#navigation>.

## II. THE PARADOX OF INCLUSION

Note that in the above scenarios, people with disabilities come from a place of perceived, potential, or actual exclusion. They or others take action and barriers are removed.

From the point of view of the able-bodied majority, there are two groups: the “us” non-disabled, and the “them” disabled. This holds true even for the Americans with Disabilities Act, which recognized discrimination against people with disabilities as a minority and legally mandated their integration into society.<sup>9</sup>

## III. TORAH AND JEWISH LAW APPLIED TO JEWS WITH DISABILITIES—A DIFFERENT APPROACH

As Sharon Shapiro-Lacks has pointed out, the Torah and the Talmud, Midrash, commentaries, legal codes, and responsa that followed are not based on entitlements. It is based on rights and responsibilities.

Underlying the entire corpus of Jewish legal material is the unwritten assumption that the Law applies to *all* Jews.

There is no separate Tractate concerning Jews with disabilities. It follows that Jews with disabilities, from a Torah perspective, are assumed to be included from the get-go. They need not be rescued from exclusion.

Any leniency or exemption that is applied to a Jew with a disability arises in a specific context.

A person who is deaf is not obligated to hear the Shofar. A person who is blind cannot see lightning, a rainbow, or the Havdalah candle, and therefore does not recite the blessings associated with them. A person with a metabolic condition may be allowed leniencies on a public fast day, to achieve the higher goal of preserving his life.<sup>10</sup>

<sup>9</sup> Americans with Disabilities Act of 1990, 42 U.S.C. § 12112.

<sup>10</sup> For an exploration of the approach of starting from universal inclusion, see Rabbi Michael Levy, *Exploring And Interpreting Disability In The Bible: Clearly And Comprehensively*, N.Y. JEWISH WK. (June 8, 2016, 7:12 AM), <https://jewishweek.timesofisrael.com/exploring-and-interpreting-disability-in-the-bible-clearly-and-comprehensively/>, and Rabbi Michael Levy, *Exploring And Interpreting Disability In The Bible: Clearly And Comprehensively, Part II*, N.Y. JEWISH WK. (June 9, 2016, 7:40 AM), <https://jewishweek.timesofisrael.com/exploring-and-interpreting-disability-in-the-bible-clearly-and-comprehensively-part-ii/>.

#### IV. DISSONANCE

On the homocapable spectrum, whether in the secular or religious sources, and given rapidly evolving rehabilitation and medical technology and techniques, it would seem that we Americans and Jews with disabilities have all we need to participate fully in our community. Why is it then, that we are poorly educated compared to non-disabled students? Why are so many of us unemployed or under-employed? How is it that despite the best efforts of many organizations and individuals, we have not fully integrated into the Jewish life cycle, synagogues, camps, and media?

How is it that New York State prides itself on an initiative to contract with women and minority-owned businesses but does not include business owners with disabilities as a minority?<sup>11</sup> An answer will suggest itself as the discussion shifts to the hypocapable context.

#### V. THE HYPOCAPABLE CONTEXT—IMPACT ON CHILDREN AND ADULTS WITH DISABILITIES

The hypocapable context generates the belief that a child's disability is central to the definition of who he is.<sup>12</sup> Influenced by the

<sup>11</sup> See N.Y. St. Off. Gen. Servs., *Minority and Women-Owned Business Enterprises Frequently Asked Questions*, N.Y. STATE., <https://ogs.ny.gov/mwbe/minority-and-women-owned-business-enterprises-frequently-asked-questions> (last visited Oct. 20, 2020).

<sup>12</sup> Audio Tape: Chazak Inspiration Line, by Chofetz Chaim Heritage Foundation (on file with author and the *Touro Law Review*) (Chazak is a phone-in portal provided by the Chofetz Chaim Heritage Foundation. The listeners are for the most part Orthodox Jews who may not avail themselves of mainstream "secular" vocational, medical and advocacy agencies which serve the disabled. This recording is a phone menu listing lectures targeted to various disability categories. The phone menu, which has been in existence for at least three years, has the effect of defining a person according to his or her disability. It leaves no room for "the individual unique personality," complete with interests, motivations, inner feelings, and life goals and aspirations); Audio Tape: TorahPhone Dial-In Phone Service—One Rabbi's View of Matchmaking for the Handicapped, by Torah Communications Network (on file with author and the *Touro Law Review*) (this audio recording is from the Torah Communications Network's phone-in portal, which provides many lectures on Jewish history, law, philosophy, ethics, legends and stories. The lecturer in this recording supports the widespread belief, considered by some to be actual fact, that it is proper for a person with a disability to seek out, or be matched with, another person with a disability as a marriage partner. The underlying myth is that disability defines each prospective partner, and creates a bond between them, without any regard to personality, common interests, and ability to grow together. In rare cases, a "reward" is offered to

media, health professionals, and service organizations, his parents, religious and secular teachers, and eventually his non-disabled age cohorts fall prey to subsuming whatever personality he has to stereotypical beliefs about disability.<sup>13</sup>

The media, the medical profession, some clergy, some fundraisers, and families aspiring to high status and perfection sometimes see disability as a tragedy. They believe that children and adults who have a disability inherently experience a hard life, and should therefore be shielded from struggle, adversity, and the normal frustrations that we all encounter.

Rabbi Aryeh Nivin, citing *Derech Hashem* and other Jewish ethical works, explains that man is meant to struggle and perhaps even fail at times, to grow and perfect his character traits. A child or adult with a disability who is never allowed to fail or be frustrated can never grow and perfect himself.

Disability is perceived as a stigma. Society substitutes terms like “challenged, differently able” and the odious “special needs” to avoid using “disability.”

Of necessity, the disability service provision establishment is an industry that must maintain its funding. Too many such organizations offer people with disabilities, even those who have typical intelligence, with comprehensive services that sometimes take them away from that rough-and-tumble cauldron called the family, which through thousands of forgettable days (rather than through infrequent splashy events), turns us into adults ready to work and marry. Those of us with disabilities lucky enough to be enmeshed in strong families eventually realize that teasing and being teased, horseplay and conflicts (even with broken arms and stitches), mealtime rituals, and adventures that our parents never learned about somehow prepared us for work, social

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anyone who can bring two people with disabilities together. This understandably can result in disaster.).

<sup>13</sup> Audio Tape: TorahPhone Dial-In Phone Service—Pre-Yom Kippur Lecture Describing the Jewish Disabled, by Torah Communications Network (on file with author and the *Touro Law Review*) (this audio recording is from the Torah Communications Network. The lecturer recounts his profound inspiration when he witnessed individuals with severe cognitive impairments and speech impediments reciting the “Hear O Israel” prayer. Any discussion about one sub-group of the disabled tends to generalize to “all disabled.” The lecturer unwittingly perpetuates the stereotypical assumption that any individual with a speech impediment is also cognitively impaired. The “inspiration” ignores the uniqueness of each worshipper with a disability.).



relationships, marriage, raising our own children, and aging with contentment.<sup>14</sup> A child whose family members treat him as “special” or “different” will find it hard to step into the real world when he turns 21.

By the time he is a teenager, a child who receives constant messages that he is “different” never realizes that with appropriate accommodations, he could and should live in an integrated environment. He may become someone’s legal guardian, even if that guardian does not accept input from him about employment and marriage goals. Lack of compliance on his part is most likely perceived as a behavioral issue that must be “treated” rather than an attempt to assert his autonomy and identity. He is spoken about in the third person: “What would he like to eat?” in his presence. Especially if he has an intellectual disability, it is assumed that he feels no humiliation.

Especially in insulated communities that choose not to interact with secular agencies or through the Internet (this is not a judgment), educators, clergy and parents are not aware of techniques and technology that can help children with disabilities find alternative ways of learning.<sup>15</sup>

Some service organizations and health professionals assume that because a child or an adult has a disability, he cannot help but be sad. They project their own anxiety onto him without ever asking him how he actually feels. It’s okay for him to celebrate Passover and Simchat Torah, but while other Jews mourn the destruction of the Holy Temples, he is entertained by famous musicians.

With good intentions, fund-raisers appeal to us to relieve the “suffering” of “special needs” children and adults. Merely because they exist, they are considered “courageous” and “inspiring.”

Unfortunately, employers won’t hire you and potential partners won’t marry you just because you’re special. Employers and potential mates look for qualities like the ability to give, share, compromise, admit and correct mistakes, co-operate, be self-motivating, take responsibility for both accomplishments and failures, and manage daily activities.

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<sup>14</sup> See Daniel Goleman, *Emotional Health in Older Men: Another Theory*, CHI. TRIB. (Jan. 16, 1990), <https://www.chicagotribune.com/news/ct-xpm-1990-01-16-9001050007-story.html>.

<sup>15</sup> See Yisroel Besser, *Always My Malky*, MISHPACHA MAG. (Aug. 9, 2017), <https://mishpacha.com/always-my-malky/>.



So-called “inclusion experts,” many of them non-disabled individuals, do good work. Unfortunately, their message is that we who have disabilities are *not* experts and can’t articulate to our communities what is best for us. It should be noted that blacks and women, who are minorities as we are, conduct their activities through trained leaders and advocates, not by way of “inclusion experts.”

The sheer volume of information and media coverage generated from the “hypocapable context” is so overwhelming that even highly educated clergy and health professionals will speak through others to us as one would speak to a parent about a child lacking full powers of comprehension and self-expression.

In my career as Director, Travel Training, MTA New York City Transit, I (and Transit’s Marketing and Press offices) spent years convincing health, vocational, and recreational groups within the disability community that safe, affordable travel on buses and subways was a realistic option (after travel training) for many individuals with disabilities.

Jewish matchmakers hesitated to work with singles with disabilities until Yad Hachazakah began to network with them. In its 14-year history, Yad’s work has contributed to 45 marriages involving a spouse with a disability.

In what might be called “organizational learned helplessness,” the hypocapable establishment is quick to conclude that many aspirations and goals of people with disabilities cannot be achieved and shouldn’t even be attempted.<sup>16</sup>

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<sup>16</sup> See Rabbi Michael Levy, *What Is the “I” Word and What Can We Do About It?*, N.Y. JEWISH WK. (Sept. 15, 2017, 7:14 AM), <https://jewishweek.timesofisrael.com/what-is-the-i-word-and-what-can-we-do-about-it/>. For additional examples of the hypocapable context, see *The ‘University of Yachad’ Is Coming, 10/15, for Staff and Visitors*, ORTHODOX UNION (Sept. 19, 2012), [https://www.ou.org/news/the\\_university\\_of\\_yachad\\_is\\_coming\\_10\\_15\\_for\\_staff\\_and\\_visitors/](https://www.ou.org/news/the_university_of_yachad_is_coming_10_15_for_staff_and_visitors/); *Team Yachad: Everyone’s a Winner in This Year’s Jerusalem Marathon*, OU ISR. (Mar. 15, 2015), <https://www.ouisrael.org/team-yachad-israel-everyones-winner-jerusalem-marathon-2015/>; Mary Hui, *Tinkering with a Mission: Weekend Inventors Create Affordable Technology*, WASH. POST (July 24, 2016), [https://www.washingtonpost.com/local/tinkering-with-a-mission-weekend-inventors-create-affordable-technology/2016/07/24/e558e772-51d3-11e6-bbf5-957ad17b4385\\_story.html](https://www.washingtonpost.com/local/tinkering-with-a-mission-weekend-inventors-create-affordable-technology/2016/07/24/e558e772-51d3-11e6-bbf5-957ad17b4385_story.html); Jeff Himmelman, *Four Bodies in Elmhurst*, N.Y. TIMES MAG. (Dec. 2, 2015), <https://www.nytimes.com/2015/12/06/magazine/four-bodies-in-elmhurst.html>.

## VI. THE SUPER-DISABLED

Some organizations bask in the fame of disabled actors and athletes, partnering with high-profile Hollywood, Broadway, philanthropic, and sports organizations to enhance their own image and the image of their leader. This is understandable, but frustrating when such organizations and leaders muzzle the opinions and voices of those whom they supposedly serve.

It is not surprising that the public, the media, health professionals, employers, educators, and the clergy come to generalize people with disabilities as either pitiable or “pedestaled”—talented in the extreme.

They understandably forget that most of us who have disabilities are ordinary people, aspiring to learn, earn, worship, and contribute to our communities. Many of the accommodations we need are not expensive, and many times, we integrate ourselves into our communities easily and without headlines or fanfare.

Cecil and David Rosenthal were ordinary members of their Tree of Life Pittsburgh synagogue who happened to have cognitive disabilities. In a feat having nothing to do with disability and unmatched by most of us, they arrived each week to help set up the synagogue well before services began. On October 27, 2018, they arrived early as always. They were murdered by a gunman who shouted, “All Jews must die!”<sup>17</sup>

They taught us that many Jews with disabilities participate in their synagogues without Special Sabbaths, inspirational events, and awareness campaigns that make “the establishment” proud but quickly fade to make way for the next project.

## VII. PEOPLE WITH DISABILITIES AND THE COVID-19 CRISIS

Study after study examines the impact of COVID-19 on various minority groups.<sup>18</sup> I am not aware of a single study that rigorously

<sup>17</sup> See Rabbi Michael Levy, *Disability and Hospitality: The Rosenthal Brothers' Legacy*, N.Y. JEWISH WK. (Nov. 28, 2018, 7:45 AM), <https://jewishweek.timesofisrael.com/disability-and-hospitality-the-rosenthal-brothers-legacy/>.

<sup>18</sup> See Noel King, *Why COVID-19 Disproportionately Impacts Latino Communities*, NPR (July 1, 2020, 5:00 AM), <https://www.npr.org/2020/07/01/885878571/why-covid-19-disproportionately-impacts-latino-communities#mainContent> (interviewing Daniel López-Cevallo about the disproportionate impact COVID-19 has on the Latino community).

examines the impact of COVID-19 on the minority of people with disabilities.

The CDC never reached out to the disability community to advise us that one could call the CDC for COVID-19 and other information. Many of us have no computers, lack the resources to buy computers and the adaptive equipment that some of us need, and are unaware or cannot afford computer training that is available.

One wonders how many people with disabilities lost their lives not because of their disability, but because of the communication, architecture, transportation, and other barriers that keep us from receiving health care. Why haven't we shouted to the media and the government "Disabled Lives Matter!"?

### VIII. EPILOGUE—FOCUSING ON THE FUTURE

As blacks and women are now realizing, the lives of the minority of people with disabilities will most powerfully improve through systemic change. Some suggestions follow:

1. We can be proud that the State of Israel is a world leader in many areas of disability research. The mindset described in "Start-up Nation" can bear wondrous fruit in the disability community.
2. Just as medical students, clergy and other service providers now get to know their black, elderly and transgender service recipients as "whole persons," so we need to make sure that they get to know us.
3. Diversity staff, administrators, event planners, tech support staff, and policymakers need to work with us as "equal power partners" as conferences and events are planned and conducted.
4. For the welfare of the coming generations, parents, and eventually their children with disabilities should have a chance to get to know successful people who have the same disabilities as the children. If the parents don't discard their stereotypes immediately, they will at least know that there are alternatives.
5. A system like Lexis, with granulated data, should be developed so that more people have access to disability research.
6. A Jewish contribution to Systems Change—*Kavod Habriot*—the dignity of all Human Beings.

Even non-traditional Jews tremble if a Torah Scroll, containing God's words, is treated shabbily or falls to the ground. How much

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more so should we uphold the dignity of every human being, disabled and non-disabled, whose soul partakes of the Divine Image?<sup>19</sup>  
May the Almighty bless our efforts with success.

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<sup>19</sup> See Rabbi Michael Levy, *Enriching Modern Disability Awareness with an Ancient Jewish Value*, N.Y. JEWISH WK. (Feb. 10, 2019, 4:34 PM), <https://jewish-week.timesofisrael.com/enriching-modern-disability-awareness-with-an-ancient-jewish-value/>.