

בס"ד

The JEWISH Spin on Current Events

EAVESDROPPING & WIRETAPPING

When is one permitted to intrude on someone's privacy?

OVERVIEW

1. IS PRIVACY A HUMAN RIGHT OR A TORAH REQUIREMENT?
2. WHICH TRANSGRESSIONS DO EAVESDROPPERS VIOLATE?
3. WHEN IS BREAKING CONFIDENTIAL INFORMATION OR INTRUDING IN ONES PRIVATE LIFE PERMISSIBLE?
4. BIBLICAL CHARACTERS WHO EAVESDROPPED
5. SHOULD WE BE CONCERNED OF EAVESDROPPERS?

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EAVESDROPPING AND WIRETAPPING

When is one permitted to intrude on someone's privacy?

ס SOURCES ס

1. Is privacy a human right or a Torah requirement?

ס 1A ס

NUMBERS 24:5

How goodly are your tents; O Jacob, your dwelling places, O Israel.

2. Which transgressions to eavesdroppers violate?

ס 2A ס

TALMUD, BAVA BASRA 87B-88A

Mishna: If one sends his son to a storekeeper [to purchase oil] with a *pudyon* in his hand, and the storekeeper measured an *issar's* worth of oil and gave the *issar*, and the child broke the flask of oil... the storekeeper is liable. R' Yehudah exempt the storekeeper...

Talmud: ... What are we dealing with here? A case where the storekeeper took the flask to measure with it for other [customers]. And it is regarding the law of one who borrows without permission that they disagree. One master [R' Yehudah] holds that he is considered a borrower. But the other master [the Sages] holds that he is considered a thief.

ס 2B ס

TALMUD, BAVA BASRA 2A-B

Mishna: Partners who agreed to make a '*mechitza*' [i.e., partition] in a courtyard [that they own jointly] must build the wall in the center...

Talmud: The Rabbis maintained: What is the meaning of the word '*mechitza*'? A wall!... And the reason [that they must jointly build a wall] is because they agreed [to build]. But had they not agreed, they would not obligate [the reluctant partner]. We see therefore that visual trespass is not considered damaging.

But say, what is the meaning of '*mechitza*'? A division!... since they agreed [to the division of the courtyard] one can compel the other to build the wall [jointly]...

[The case of a vegetable] garden differs [from the courtyard], in line with R' Abba, for R' Abba said in the name of Rav Huna, who said in the name of Rav: It is forbidden for a person to stand in his friend's field during the time it displays a standing crop, [lest he become jealous and cast an evil eye (*ayin hara*) on the field – Rashi]

⌘ 2C ⌘

LEVITICUS 19:16

You shall not be a gossipmonger among your people.

⌘ 2D ⌘

LEVITICUS 19:18

You shall love your fellow as yourself.

⌘ 2E ⌘

LEVITICUS 19:11

You shall not steal.

⌘ 2F ⌘

Exodus 22:6-7

If a man shall give money or vessels to his fellow to safeguard, and it is stolen from the house of the man, if the thief is found he shall pay double. If the thief is not found, then the householder shall approach the court that he had not laid his hand upon his fellow's property.

⌘ 2G ⌘

TALMUD, YUMA 4B

“*Laimor*”: R’ Menasya the grandson of R’ Menasya said in the name of R’ Menasya the Great: From where do we know concerning one who says something to his friend that he is under admonition not to repeat it to others unless he says to him, “Go repeat it”? For it is stated: “And Hashem spoke to him from the Tent of Meeting ‘*laimor*’”.

3. When is breaking confidential information or intruding in ones private life permissible?

⌘ 3A ⌘

EXODUS 22:1

If the thief is found [caught] while breaking in, and is struck and killed, there is no liability for his blood.

⌘ 3B ⌘

TALMUD, TRACTATE SANHEDRIN 72A

Raba said: What is the reason for the law of breaking in? Because it is certain that no man is inactive where his property is concerned; therefore this one [the thief] must have reasoned, If I go there, he [the owner] will oppose me and prevent me;

but if he does I will kill him. Hence the Torah decreed, If he come to slay you, forestall by slaying him.

ס 3C ס

TALMUD, TRACTATE SANHEDRIN 72A

Our Rabbis taught: "There shall no blood be shed for him, if the sun be risen upon him." (Exodus 22:2) Now, did the sun rise upon him only? But [this is the meaning:] If it is as clear to you as the sun that his intentions are not peaceable, slay him; if not, do not slay him.

ס 3D ס

MAIMONIDIES, LAWS OF A MURDERER, CHAPTER 1, LAWS 6-7, 9

Every Jew is commanded to save a person being pursued for his life, even if it means killing the pursuer, and [even if] the pursuer is a minor.

Thus, if warning is issued and he continues to pursue, the pursuer can be killed even without his acknowledging the warning. But if the pursuer can be stopped by disabling part of his body, by striking him with an arrow, a stone, or a sword . . . then that should be done.

And this is a negative commandment, i.e., not to have mercy on the life of a pursuer.

ס 3E ס

LEVITICUS 19:16

You shall not be a gossipmonger among your people, you shall not stand aside while your fellow's blood is shed...

ס 3F ס

MEGILLAS ESTHER 2:21-23

In those days, while Mordechai was sitting at the King's gate, Bigthan and Teresh, two of the King's chamberlains of the guardians of the threshold, became angry and plotted to lay hands on King Achashveirosh. The plot became known to Mordechai, who told it to Queen Esther, and Esther informed the King in Mordechai's name. The matter was investigated and corroborated, and they were both hanged on a gallows. It was recorded in the book of chronicles in the King's presence.

ס 3G ס

SHULCHAN ORUCH CHAPTER 14:4

It is permissible to take a Tallis of your friend and to make a blessing on it, as long as you fold it, should you have found it folded.

4. Biblical characters who eavesdropped

⌘ 4A ⌘

GENESIS 18:9-11

They [the angels] said to him [Abraham], “Where is Sarah your wife?” And he said, “Behold! – in the tent!” And he said, “I will surely return to you at this time next year, and behold Sarah your wife will have a son.” Now Sarah was listening at the entrance of the tent which was behind him.

⌘ 4B ⌘

GENESIS 27:5

Now Rebecca was listening as Isaac spoke to Esau his son...

⌘ 4C ⌘

GENESIS 42:13-24

And they replied, “We, your servants, are twelve brothers, the sons of one man in the land of Canaan. The youngest is now with our father and one is gone.”... *(Joseph doesn’t believe them, accused them for being spies and gives them the following option)* “let one of your brothers be imprisoned in your place of confinement while you go and bring provisions for the hunger of your households. Then bring your youngest brother to me so your words will be verified and you will not die.”... They then said to one another, “Indeed we are guilty concerning our brother inasmuch as we saw his heartfelt anguish when he pleaded with us and we paid no heed; that is why this anguish has come upon us”. Reuven spoke up to them, saying, “Did I not speak to your saying, ‘Do not sin against the boy,’ but you would not listen! And his blood as well – behold! – is being avenged.” Now they did not know that Joseph understood, for an interpreter was between them. He [Joseph] turned away from them and wept...

5. Should we be concerned of eavesdroppers?

⌘ 5A ⌘

PIRKEI AVOS 2:1

Rabbi said: Which is the proper path that a man should choose for himself?... Consider three things and you will not come into the grip of sin: Know what is above you – a watchful Eye, an attentive Ear and all your deeds are recorded in a Book.