



# The Moral and Personal Costs of Abuse

— ASHER LOVY

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This piece explores how some principles of classical Jewish law, traditionally applied to physical assault or injury, can illuminate the gravity of child sexual abuse, sexual and gender-based harassment, and the multiple forms of harm that they can cause. The Mishnah's teachings on the damages suffered by those who have been injured by others highlight the Jewish imperative to respond to victims and make our communal spaces safer.

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When discussing abuse, it's important to understand the damage done to people who are abused and the high moral cost of failing to prevent or properly respond to abuse. While these categories of damages weren't created with abuse specifically in mind, and abuse is not one of the examples used in the Talmud, these texts nonetheless attune us to the trauma and pain of being a victim, and they underscore the importance of recognizing the victim's suffering and offering appropriate restitution.

## The Mishnah in Bava Kama 8:1, states:

“הַחֹבֵל בְּחֵבֶרֹו חַיֵּב עָלָיו מְשֻׁם חֲמִשָּׁה דְּבָרִים, בְּנִזְקוֹ, בְּצַעַר, בְּרִפּוּי, בְּשִׁבְתוֹ, וּבְבוֹשָׁתוֹ.”

A person who injures another person is responsible to pay the injured party five forms of restitution: *nezek*, *tza'ar*, *ripui*, *shevet*, and *boshet*. —Bava Kamma 8:1

Here are some definitions of these five categories as understood in the Talmud and other subsequent works interpreting this particular Mishnah:

1. **Nezek:** The monetary value of the permanent damage caused by the injury that reduces the individual's ability to do productive work and their earning potential.
2. **Tza'ar:** The amount of money someone else would accept to suffer pain similar to the pain caused by the injury.
3. **Ripui:** The cost of medical treatment for any wounds or injuries, including any recurring costs for wounds that reopen and need retreatment later.
4. **Shevet:** Compensation for lost wages or earnings resulting from the short-term inability or decreased ability to work due to the injury.
5. **Boshet:** Reparations for the embarrassment and humiliation caused by the injury; the assessment varies based on a number of factors, including how grievous the humiliation was and the relative social position of the parties.

In the original context of the Mishnah, these categories are intended to apply to cases of physical injury of one person by another. They help us to see the seriousness with which the rabbis approached injury; by categorizing it so carefully, the text helps us consider injuries in our modern context as well.

In this article, I will propose the ways we can, and indeed should, apply these categories to cases of abuse and harassment. As we know, abuse and harassment cause very real (if not always physical) damage. These five categories can also help us delineate the varieties of damage that can be caused by abuse and harassment and the consequent obligations we hold, both individually and collectively, to victims of abuse and harassment.

## NEZEK

The category of *nezek* recognizes that injuries can have permanent effects on people's lives. In this case, that includes their ability to earn a living and to feel like fully productive and valued members of society. Here, the Mishnah reminds us of the broad ramifications of injury, recognizing that the effects can extend well beyond the injurious incident. By asking how the individual's broader life is forever affected by the injury and offering expansive restitution, the rabbis sensitively acknowledge that aspects of human beings' lives are complex and intertwined; we cannot expect an injury to vanish without potentially lifelong consequences.

*Nezek* therefore highlights the ways in which we may devalue and debase human life when we cause damage. Remembering every individual's broader ability to contribute to society enables victims to be seen as complete human beings. While societal attitudes are changing for the better as our communities become more aware, survivors may still often find themselves regarded, at best, as objects of pity. At worst, they may be seen as damaged or broken; they may even be blamed for having been abused or for speaking up about abuse. The rabbis' straightforward notions of compensation place the blame squarely where it belongs and, in the process, humanize society's often problematic image of the victim.

## TZA'AR

This category forces us to confront how difficult the pain and suffering caused by abuse is for its victims. It dramatizes just how awful such abuse can be—is there any amount of money the average person would accept to be a victim of child sexual assault? Of gender-based harassment? By forcing every individual to imagine her or himself as the victim of particular crimes, *tza'ar* points us in a visceral way to victims' suffering. Like *boshet* below, *tza'ar* shines a light on the kinds of pain and suffering that are not easily quantified but must nonetheless, according to the Mishnah, be discussed and compensated in quantifiable ways. It produces a unique empathy, forcing those adjudicating a case to envision themselves or their loved ones in similar situations, truly taking on the pain of the victim in order to determine appropriate restitution.

## RIPUI

The category of *ripui* highlights the very real and often long-term injury, both physical and psychological, to victims of abuse and harassment. *Ripui* captures specifically the ways in which a person's earning capacity is diminished by the injuries they have suffered, taking a long-range view. Survivors of sexual abuse can experience any one or a number of the following: depression, suicidal ideation, post-traumatic stress disorder (PTSD), self-harm, STIs transmitted by the abuser (who may be HIV positive), eating disorders, unwanted pregnancy, sleeping disorders, nightmares, flashbacks, substance abuse, anxiety disorders, dissociation, impaired ability to trust, impaired ability to build healthy, stable relationships, social disorders, borderline disorders, increased risk of future victimization, and suicide.

Through *ripui*, the Mishnah encourages us to think as expansively as possible about the effects of injury; like *nezek*, this category prompts us to account for long-term ripple effects. In a society that often tells people to "move on" or "get over it," these categories lend credence to victims' real-life experiences, which are often messier and more complex than society is willing to recognize.

## SHEVET

This category points us to consider the direct and immediate loss of wages and ability to work caused by injury, but it more broadly implies that injury affects daily functioning and everyday life. Victims of sexual abuse and harassment, like the other victims described by the Mishnah, face exactly these challenges. In addition to the many effects of abuse and harassment listed under *ripui* above, we know that the trauma of sexual abuse alters brain chemistry, physiology, and function. Costs of treatment over one's lifetime for child sexual abuse victims can be astronomical, and many survivors are unable to afford it. These costs are exacerbated by legal restrictions limiting the window of time available for survivors to disclose their abuse and pursue legal action against their abusers or against institutions that may have enabled the abuse.

Therefore, while we can note human beings' incredible potential for resilience, there is no denying the impact on many victims beyond the need for treatment of the damage they have suffered, including but not limited to employment and career paths. Trauma triggers (stimuli, which, while generally not traumatic to others, can trigger in survivors the recall of past trauma) can cause sudden flashbacks, anxiety attacks, and an inability to focus, all of which impair functioning at work and at home. The category of *shevet* shines a light on what happens when a person cannot function as they once did.

## **BOSHET**

Here we are forced to confront the intense sense of shame and humiliation felt by many survivors of sexual abuse and harassment. While in Jewish law, *boshet* is about public shame, this category invites us to attend to the ways that even private acts, unknown to most people, can result in significant feelings of shame and humiliation. Aside from the shame and humiliation caused by the violation itself, there is often a revictimization that takes place as a result of improper response, both from people connected to the survivor and by communities and society at large.

Such feelings of shame are caused by blaming survivors for their own abuse or denouncing them for disclosing it. Often, blame occurs when survivors report the abuse after leaving the community in which the abuse took place. Such disclosures are often treated with derision, depicted as an attempt to malign an organization against which the survivor has an ax to grind. This occurs across denominations and is not unique to any one community.

Female survivors of sexual abuse may face additional questions about their state of intoxication, state of dress, demeanor, and behavior leading up to the assault. This is not just true of adult female survivors; “she seduced me” is an all-too-common defense in cases involving young girls as well. Female survivors are often accused of “asking for it,” not fighting hard enough, being responsible for their own abuse because they were alone with their abuser, or claiming abuse to cover their own indiscretions. Survivors who suffer from any mental health conditions or addiction often find themselves discredited on the grounds that these conditions render them untrustworthy.

While the Mishnah is focused on how a Jewish court should calculate the monetary damages owed to a victim of injury, our point here is not merely to give further texture to or expand the damages that civil courts might consider. Our expansive reading of this Mishnah calls on us to use these categories as a guide to better respond to survivors of abuse and harassment in our community; to be more effective in prevention; and, most of all, to see the emotional, psychological, physical, and moral costs of failing to prevent sexual abuse and harassment.

## Discussion Questions

1. How do the Mishnah’s five categories correspond to key aspects of human experience? What does this Mishnah teach us about what it means to be human—and what happens when we are dehumanized?
2. How can these five categories of harm serve as a foundation specifically for how we support victim-survivors of abuse in our community today? What can we do within our community or organization to address their rights, needs, and dignity?
3. How can the conceptual framework of this Mishnah shape our society as a whole? Our organizations? What might be some characteristics of a Jewish community that takes these categories seriously? What would that community look and feel like? How might it differ from the Jewish community we find ourselves in today?

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