

Legislating Morality: The Prohibition of Lashon Hara

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Gossip - רכילות

Rambam defines the Torah prohibition “Do not go spreading tales” in two stages. First he states:

איזה הוא רכיל זה שהוא טוען דברים והולך מזה לזה ואומר כך אמר פלוני כך וכך שמעתי על פלוני. אע"פ שהוא אמת הרי זה מחריב את העולם. (הלכות דעות ז:ב)

Who is a *rechil*? He who carries words and goes from one person to another and says, ‘So said a certain person, and such did I hear about this person.’ Even though he says the truth he destroys the world.”

Then secondly:

יש עון גדול מזה עד מאד והוא בכלל לאו זה והוא לשון הרע והוא המספר בגנות חברו, אף על פי שאמר אמת.

There is a much greater sin than this, and it is included within this prohibition, namely *lashon hara* which is speaking derogatorily of one’s friend, even though he says the truth.

Read simply, Rambam defines a prohibition against what we would call “gossip” and the Hebrew term for this *lav* could best be referred to as *rechilus* (רכילות). This offense is serious enough to destroy the world. The prohibition against *lashon hara*, a subset of the general *lav*, is worse, however, as in that case the offender speaks evil of others.

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However, the *Kesef Mishneh*, in explaining this halachah, adds a few crucial words:¹

דעת רבינו שרכיל היינו האומר פלוני אמר עליך כך וכך או עשה לך כך אע"פ שאותו דבר אינו גנות למי שנאמר.

Rabbenu's opinion is that רכיל refers to one who says 'a certain person said such and such **about you**' or '**did such to you**' even though nothing offensive had been directed against the one who is being informed of it.

With the addition of the word עליך "to you" and the additional phrase עשה לך "did to you," the concept that is commonly called *rechilus* became entrenched in halachah. Since there is no *Shulchan Aruch* on *Hilchos Lashon Hara*, the Chofetz Chaim wrote the work that gave him the name by which he is immortalized. He follows the reading of Rav Yosef Karo, and what is in fact the opinion of Raavad² and other *Rishonim*,³ but not that of Rambam. *Rechilus* according to this view is a more serious and dangerous offense than gossip and perhaps even more serious than *lashon hara*—what we would call "informing," in which the information that is passed on is personally relevant to the one being informed of it. He divides his *sefer* into two parts: *Laws of Lashon Hara* and *Laws of Rechilus*. In contrast, according to Rambam, *rechilus* is the lesser but all-encompassing prohibition of gossip that often escalates into the more serious *lashon hara*.

That Rambam saw the words לא תלך רכיל as a broader prohibition can be discerned most clearly in *Hilchos Tzara'as*. In discussing the need for the Torah to warn us against incurring leprosy,⁴ Rambam speaks of the slippery slope of the idle chatterers in the pubs and street corners. Merely gathering to speak and swap stories and tall tales is included in the prohibition of לא תלך רכיל.

¹ Why he felt compelled to do so (presumably because of Rambam's reference to דואג), and why this evidence is misleading, will be discussed towards the end of this article.

² See *Hilchos Deos* 7:2.

³ See *Semag, lav* 11; *Sefer HaChinuch* 236; *Chofetz Chaim, Hil. Rechilus, Klal* 1, *Mekor Chaim* 2, *Be'er Mayim Chaim* 3.

⁴ השמר בנגע הצרעת.

וזה הוא דרך ישיבת הלצים הרשעים: בתחילה מרבין בדברי הבאי, כעניין שנאמר "וקול כסיל, ברוב דברים" (קוהלת ה,ב); ומתוך כך באין לספר בגנות הצדיקים. זו היא שיחת הרשעים שגורמת להן ישיבת קרנות, וישיבת כנסיית של עמי הארץ, וישיבת בתי משתאות עם שותי שיכר. (הל' טומאת צרעת ט"ז:)

This is the manner of the evil slackers... at first they dwell on exaggerations... and from this it leads to the denigration of the righteous... this is the speech of evil men that results from sitting on the street corners, and pubs of the ignorant.

One proceeds on a slippery slope from *rechilus* to *lashon hara* and both are contained in the same *lav*.

The Destruction of the Soul—בעל לשון הרע

יש עוון גדול מזה עד מאוד והוא בכלל לאו זה, והוא לשון הרע; והוא המספר בגנות חברו, אף על פי שאמר אמת. אבל האומר שקר, מוציא שם רע על חברו נקרא. אבל בעל לשון הרע—זה שיושב ואומר כך וכך עשה פלוני, וכך וכך היו אבותיו, וכך וכך שמעתי עליו, ואומר דברים של גנאי: על זה הכתוב אומר, "יכרת ה', כל שפתי חלקות--לשון, מדברת גדולות". (תהילים יב,ד) (הל' דעות ז:ב)

There is a much greater sin than this, and it is included within this prohibition, namely *lashon hara* which is speaking derogatorily of one's friend, even though he says the truth. But if one says falsehoods, he is called a slanderer מוציא שם רע. But the *ba'al lashon hara* בעל לשון הרע is one who sits and says 'a certain person did such and such, and these peoples were his ancestors, and I heard such and such about him' and what he relates is derogatory.

Kesef Mishneh (ibid.) notes that Rambam has introduced two new terms (שמות): the מוציא שם רע and the בעל לשון הרע. While one transgresses the *lav* with any gossip, it is the sitting and relating of stories, in a manner comparable to what Rambam describes at the end of *Hilchos Tzara'as*, that qualifies one for the appellation "*ba'al lashon hara*."

According to *Kesef Mishneh* the term *ba'al lashon hara* connotes a habitual violator.⁵ Yet Rambam uses the term again upon summing up all the types of speech that constitute *lashon hara*:

כל אלו--הם בעלי לשון הרע, שאסור לדור בשכונתם, וכל שכן לישב עימהם,
ולשמוע דבריהם. (שם 1:1)

All these are the *ba'alei lashon hara* of whom one may not dwell in their neighborhood, nor certainly to sit with them and listen to their speech.

From the context here of Rambam's usage of the words *ba'alei lashon hara* it would not seem that the term is meant to refer exclusively to a repeated offender.

There is in fact another subtle aspect to Rambam's choice of the term *ba'al*. To appreciate the nuance of his language we must realize that there is actually some difficulty in placing *lashon hara* in *Hilchos Deos*. *Deos* mean character qualities—what we normally call *midos*. These laws are centered around the mitzvah of והלכת בדרכיו “Going in His Ways,” which requires one to emulate G-d's 13 characteristics.⁶ The mitzvah is to be “kind and merciful” הנון ורחום. Similarly, the other mitzvos in *Hilchos Deos* are meant to mold character—to create within the person states of being.⁷ Thus in the mitzvos of “Loving friends” and “Loving converts” (ואהבת לרעך, (ואהבת את הגר) the requirement is that we actually have the love⁸ while the prohibition against hating (לא תשנא) requires that one not have hate in his heart.⁹ The physical requirement of “rebuking a transgressor” (הוכיח תוכיח) is as the *mikra* suggests¹⁰ an auxiliary mitzvah to the prohibition against hating. Rather than standing by

⁵ מי שמורגל תמיד.

⁶ See *Hilchos Deos*, especially chapter 1, but all of the first five chapters are devoted to explicating this mitzvah.

⁷ Both the language of the Torah, and Rambam's language in *Hilchos Deos* make this clear.

⁸ See *Hilchos Deos* 6:3,4. With regard to loving the *ger*, the love is to be comparable to the love of G-d. With regard to loving friends, Rambam separates the practical element of the mitzvah and places it at the end of *Hilchos Avel* (14:1), for in *Hilchos Deos* the focus is on the love itself.

⁹ *Hilchos Deos* 6:5. כל השנא אחד מישראל בלבו.

¹⁰ לא תשנא אחיך בלבבך הוכיח תוכיח את עמיתך ולא תשא עליו חטא.

in the presence of sin, merely holding the sinners in contempt, one must feel a need to turn the offender away from his path.¹¹ The admonitions against oppressing widows and orphans¹² are demands for a compassionate soul. The mitzvah of cleaving to scholars¹³ is the fulfillment of the Torah command to “Cleave to G-d” ובו תדבק—and it is not in actions that we have the fulfillment of the mitzvah (קיום מצוה) but in the *dveikus* to G-d that this leads to. With regard to “Do not avenge” לא תקום and “Do not bear a grudge” לא תטור, Rambam is explicit that the focus of the *lav* is to eradicate negative character traits.¹⁴ The entirety of *Hilchos Deos* deals with character.

Hurtful, damaging speech does not really belong in *Hilchos Deos* as speech is an action and not a character trait. Rambam coded the laws of hurtful speech spoken directly to another דברים in *Hilchos Mechirah* (14:12).

Just as there is [the prohibition] of *ona'ab*¹⁵ in business dealings, so too there is [a comparable transgression] with words... How so? If one is a *ba'al teshuvah* don't say to him 'remember your past actions,' and if he is the son of converts, don't say 'remember the acts of your ancestors,' etc.¹⁶

Speaking *lashon hara* would have fit comfortably together with this similar transgression, or perhaps it should have been cataloged in the laws of *nezikin* where payment is extracted for embarrassing another as well as for physically harming him. The reason that לא תלך רכיל is recorded in *Hilchos Deos*, is because the essence of the

¹¹ The prohibition against embarrassing a person (*Deos* 6:8) of לא תלבין is learned from the end of this *mikra* from the words חטא and לא תשא עליו and enforces a limitation on how much anger one should show.

¹² *Deos* 6:10 כל אלמנה ויתום לא תענון.

¹³ *Deos* 6:2.

¹⁴ *Deos* 7:7,8. With regard to vengeance he writes דעה רעה היא עד מאד.

¹⁵ Swindling, or perhaps tormenting, would be a better translation.

¹⁶ כשם שהוניה במקח וממכר, כך הוניה בדברים--שנאמר "ולא תונו איש את עמיתו, ויראת מאלוהיך אני ה'" (ויקרא כה, יז), זו הונית דברים. [יג] כיצד: היה בעל תשובה, לא יאמר לו זכור מעשיך הראשונים. ואם היה בן גרים, לא יאמר לו זכור מעשה אבותיך. היה גר ובא ללמוד תורה, לא יאמר לו פה שאכל נבילות וטריפות יבוא וילמוד תורה שניתנה מפי הגבורה. היו חולאים וייסורים באין עליו, או שהיה מקבר את בניו--לא יאמר לו כדרך שאמרו חבריו של איוב, "הלוא יראתך, כסלתך... זכור נא--מי הוא נקי, אבד" (איוב ד, ו-ז).

prohibition is the becoming of a *ba'al lashon hara*—an erosion of one's character, his *deos*. The Torah uses idiomatic terminology of “do not go around bearing tales” to define not the act of speech, but to paint a picture of a busybody, constantly engaged in gossip telling.¹⁷

It is in this light that Rambam speaks of the corrosive effects of *lashon hara*. Indeed, the Torah itself assigns leprosy as the punishment because it destroys the human being step by step as a contagious plague.

He who speaks *lashon hara*, will see the walls of his house corrode... if he repents, his house will become purified, and if he persists in his evil until it is burned, his clothes will be affected... if he repents they will become purified and if he persists in his evil until they are burned, his skin will become leprous and he will be exposed publicly and separated to himself, so that he cannot engage in the conversation of the wicked which is frivolity and *lashon hara*. (*Hilchos Tzara'as*, *ibid.*)¹⁸

It is in this spirit that Rambam writes:

The Scholars said that for three sins man is punished in this world and loses his portion in the world to come, *avodah zarah*, *gilui arayos*, and murder, and *lashon hara* corresponds to all of them. Also the scholars said that anyone who speaks *lashon*

¹⁷ The הולך רכיל is an identity that a person adopts for himself. In Brisker terminology it is a שם on the גברא.

¹⁸ יד שהמספר בלשון הרע, משתנות קירות ביתו. אם חזר בו, יטהר הבית; ואם עמד ברשעו עד שהותץ הבית--משתנין כלי העור שבביתו, שהוא יושב ושוב עליו. אם חזר בו, יטהרו; ואם עמד ברשעו עד שיישרפו, משתנין הבגדים שעליו. אם חזר בו, יטהרו; ואם עמד ברשעו עד שיישרפו--משתנה עורו ויצטרע, ויהיה מובדל ומפורסם לבדו, עד שלא יתעסק בשיחת רשעים, שהיא הליצות ולשון הרע.

טו ועל עניין זה הוא מזהיר בתורה ואומר "הישמר בנגע הצרעת . . . זכור, את אשר עשה ה' אלוהיך למרים, בדרך" (דברים כד, ח-ט): הרי הוא אומר התבוננו מה אירע למרים הנביאה, שדיברה באחיה שהיא גדולה ממנו בשנים, וגידלה אותו על ברכיה, וסיכנה בעצמה להצילו מן הים; והיא לא דיברה בגנותו, אלא טעת שהשוות אותו לשאר נביאים. והוא לא היה מקפיד על כל אלו הדברים, שנאמר "והאיש משה, עניו מאוד" (במדבר יב, ג). ואף על פי כן, מיד נענשה בצרעת.

טז קל וחומר לבני אדם הרשעים הטיפשים, שמרבים לדבר גדולות ונפלאות; לפיכך ראוי למי שרצה לכוון אורחיו, להתרחק משיבתן ומלדבר עימהן, כדי שלא יתפס אדם, ברשת רשעים וסכולותם.

hara is as if he denied the essence of our religion... also, the scholars said that *lashon hara* kills three people, he who speaks it, he who accepts it, and he of whom it is spoken, and the one who accepts it is harmed more than he who speaks it.¹⁹ (*Hilchos Deos 7:3*)

The soul of the *ba'al lashon hara* is lost—his corrupted character is tainted with the cruelty of a murderer, the enslavement to the *ba'al arayos'* desires and the idol worshipper's loss of contact with the Divine. The *ba'al lashon hara* is harmed more than his victim, and the one who accepts slander and is drawn into the web is harmed the most.

Public Knowledge—כבר נשמע הדבר ונודע

Rambam's last halachah in his definition of *lashon hara* provides two details that had not been covered before. These laws are coded at the end, because they are novel principles that prohibit that which is not classical *lashon hara*.

אחד המספר בלשון הרע בפני חברו, או שלא בפניו; והמספר דברים שגורמין אם נשמעו איש מפי איש, להזיק חברו בגופו או בממונו, אפילו להצר לו או להפחידו--הרי זה לשון הרע. ואם נאמרו דברים אלו בפני שלושה, כבר נשמע הדבר ונודע, ואם סיפר הדבר אחד מן השלושה פעם אחרת, אין בו משום לשון הרע--והוא שלא יתכוון להעביר הקול, ולגלותו יותר (הל דעות ז:ה).

It is *lashon hara* whether it is spoken in front of his friend or behind his back: and one who relates information that will cause damage to his friend either bodily or monetarily should it pass from person to person, even should it cause him to merely have anguish or fear—this too qualifies as *lashon hara*. If this information is related before three people, then it is considered publicly known, and should one of the three repeat it, he is not guilty of *lashon hara*, as long as his intent was not to spread it as much as possible. (*Hilchos Deos 7:5*)

¹⁹ אמרו חכמים, על שלוש עבירות נפרעין מן האדם בעולם הזה, ואין לו חלק לעולם הבא-- עבודה זרה, וגילוי עריות, ושפיכות דמים; ולשון הרע, כנגד כולם. ועוד אמרו חכמים, כל המספר בלשון הרע--כאילו כפר בעיקר, שנאמר "אשר אמרו, ללשונו נגביר--שפתינו איתנו: מי אדון, לנו" (תהילים יב,ה). ועוד אמרו חכמים, שלושה לשון הרע הורגת--האומר, והמקבלו, וזה שאומרין עליו; והמקבלו, יותר מן האומר.

Firstly, speaking classic *lashon hara* (המספר בגנות חברו) “speaking negatively about a person,” is prohibited even if it is not done in its classic fashion, i.e., behind the back of the “friend.” Even if one tells others something negative about another in his presence, and with no intent to hide it, he violates *lashon hara*. Secondly, even if the statement is not negative and thus not included in the description of *lashon hara* or even אבק לשון הרע *avak lashon hara*²⁰, it is still prohibited and categorized as *lashon hara* when it is information that is damaging to another should it become public or known to the wrong parties. Only with regard to this type of *lashon hara* is there an exception, that if the information is considered public knowledge it does not qualify as *lashon hara*. This is based on Rambam’s understanding of *Arachin* 16a:

כל מילתא דמיתאמרא באפי תלתא לית בה משום לישנא בישא מ"ט חברך
חברא אית ליה וחברא דחברך חברא אית ליה.

Any information that has been said in front of three does not qualify as *lashon hara*. Why? Because everyone has a friend who has another friend.

In the *Sefer Chofetz Chaim*, the concept of public knowledge not qualifying as *lashon hara* is brought in an unlimited fashion, based on the understanding of the text of the Gemara of other *Rishonim*,²¹ that the *Chofetz Chaim* apparently believed Rambam shared. Thus *Chofetz Chaim* proceeds to devote *klal* 2 of *Hilchos Lashon Hara* to limiting this *heter*. Nevertheless, he finds room to permit some cases which Rambam would not allow. Speaking negatively of others, whether the information is known or not, is always despicable and, according to Rambam, always prohibited.

The Generation of the Desert

Of the seven halachos that Rambam devotes to לא תלך רכיל, two of them are devoted exclusively to *mussar* (מוסר) and two others contain an element of *mussar*. He concludes his presentation as follows.

²⁰ See *Deos* 7:4, literally, the “dust” of *lashon hara*—a secondary form.

²¹ See for example Rashi in *Arachin* 16a and *Be'er Mayim Chaim* 2:3.

כל אלו--הם בעלי לשון הרע, שאסור לדור בשכונתם, וכל שכן לישוב עימהן, ולשמוע דבריהם. ולא נחתם גזר דין על אבותינו במדבר, אלא על לשון הרע בלבד. (דעות ז:ו)

All these are the *ba'alei lashon hara* in whose neighborhood it is prohibited to live and certainly to dwell with them and to listen to their speech... and the decree on our fathers in the desert was only sealed because of *lashon hara*.²²

The concluding phrase is strange. We would assume that the *lashon hara* he refers to is the report of the spies (מרגלים) who “brought back a slanderous report on the land [of Israel]” מוציאי דבת “הארץ רעה. But how does this qualify as *lashon hara*? Rambam clearly defines the prohibition as speaking about people—why would a negative report about the land, even if biased, constitute *lashon hara*? I believe that the explanation lies in Moshe Rabbeinu’s assessment of Israel’s conduct at that time.

They took in their hands from the fruit of the Land and brought it down to us; they brought back word to us and said “Good is the Land that Hashem, our G-d, gives us!” But you did not wish to ascend, and you rebelled against the word of Hashem, your G-d. You slandered in your tents and said, “Because of Hashem’s hatred for us did He take us out of the land of Egypt, to deliver us into the hand of the Amorite to destroy us. To where shall we ascend? Our brothers have melted our hearts, saying, ‘A people greater and taller than we, cities great and fortified to the heavens, and even children of giants have we seen there!’” (*Devarim* 1:25-28)

Rashi (*ibid.*) quotes Chazal on the word וחרגנו and says that this “slander” was *lashon hara*. Moshe Rabbenu felt that the report of the spies should have been greeted positively by Israel. But this generation that had left Egypt was not of the stature to face the challenge they were presented with. Their cowardly response was a sign of their lack of character and they reveal themselves as the people whom Rambam describes at the end of *Hilchos Tzara’as*.

²² Based on *Arachin* 15a.

“This is the manner of the evil slackers... at first they speak exaggerations... and this leads to speak in the vilification of the righteous... and this leads to speak about the prophets and to speak falsely about their words... leading then to **speak against G-d** and to the denial of the essentials [of our faith].”

Indeed Rambam describes the very same *ba'alei lashon hara* who said “Because of Hashem’s hatred for us did He take us out of the land of Egypt.”

Rav Yisrael Salanter and the Chofetz Chaim

Rav Yisrael Salanter was asked by the Chofetz Chaim for an approbation (*haskamah*) to his *Sefer Chofetz Chaim* but Rav Salanter did not give it.²³ He explained the reason to him. He said, you write that if one speaks *lashon hara* about another, he must relate what he had done and ask the person for forgiveness (*mechilah*).²⁴ Thus, if one has talked badly about his dearest and most beloved friend and in a moment of weakness he relates something negative about him to another, he must do *teshuvah* by revealing the transgression to the friend. The Chofetz Chaim responded that this is in fact the halachah, and indeed this is implied by the words of Rabbenu Yonah,²⁵ and though not mentioned it would follow from *Hilchos Teshuvah* of *Mishneh Torah* as well. Rav Salanter responded that one is not permitted to fulfill a mitzvah and gain *teshuvah*, at the expense of another’s pain.²⁶ To reveal his transgression to his life-long friend who felt loved like as a brother is an act of cruelty.

²³ This is recorded by Rav Sternbuch in *Mo'adim U'Zmanim* 1:54 in the name of Rav Dessler. A fuller version is recorded in *Me'ir Einei Yisrael*, part 6, p. 353.

²⁴ *Chofetz Chaim, Hilchos Lashon Hara, Klal 4:12.*

²⁵ *See Sha'arei Teshuvah* 207.

²⁶ Interestingly, a hint of the story exists in the ArtScroll *Chofetz Chaim Daily Companion*: “The legendary founder of the Mussar Movement, Rav Yisrael Salanter, found difficulty with the above law. From a Mussar perspective, he suggested that if by telling a person that we spoke *lashon hara* about him we will cause additional pain and distress, then perhaps it is better not to inform him.”

Perhaps Rav Salanter did not have this single criticism in mind when he gave his explanation. According to at least one version, the Chofetz Chaim asked for a *baskamah* that recorded that he disagreed with this law and Rav Yisrael refused.²⁷ Moreover, in the *Mishnah Berurah* (606:3), the Chofetz Chaim himself says that at times one should not ask for *mechilah* and hence their disagreement requires further explanation.²⁸

There are two reasons why Rambam put so much Aggadah/*Mussar* into *Hilchos Lashon Hara* and had so few details of strict law. Chofetz Chaim gives as one important rule,²⁹ that the measure for determining whether something is permitted to be said or not is whether it is necessary to protect another from harm. Rambam does not give guidelines but states: 1) all gossip is prohibited. That being the case, it emerges that necessary discourse is permitted, as this would not be gossip—it has an acceptable purpose.³⁰ 2) Speaking derogatorily is prohibited. This could imply that even necessary negative speech would be prohibited. But let us look at the whole halachah:

יש עוון גדול מזה עד מאוד והוא בכלל לאו זה, והוא לשון הרע; והוא המספר בגנות חברו, אף על פי שאמר אמת. אבל האומר שקר, מוציא שם רע על חברו נקרא. אבל בעל לשון הרע—זה שיושב ואומר כך וכך עשה פלוני, וכך וכך היו אבותיו, וכך וכך שמעתי עליו, ואומר דברים של גנאי: על זה הכתוב אומר, "יכרת ה', כל שפתי חלקות--לשון, מדברת גדולות."

There is a much greater sin than this, and it is included within this prohibition, namely *lashon hara* which is speaking derogatorily of one's friend, even though he says the truth. But if one says falsehoods, he is called a slanderer מוציא שם רע. But the *ba'al lashon hara* בעל לשון הרע is one who sits and says "a certain person did such and such, and these peoples were his ancestors,

²⁷ There are many versions of the story. All we can be fairly certain of is that Rav Yisrael refused to give the *baskamah* and that his refusal is linked to this law.

²⁸ See *Mo'adim U'Zmanim*, *ibid*.

²⁹ See *Hilchos Lashon Hara*, *Klal* 10. More generally for תועלת, to fulfill a real need.

³⁰ See *Perush HaMishnah* on *Avos* where Rambam speaks at length about what speech should be avoided, even though it is not prohibited as "gossip." He discusses this earlier in *Hilchos Deos* as well.

and I heard such and such about him” and what he relates is derogatory.

Why does Rambam speak of “the one who sits” *יושב*? He paints a picture for us. He superimposes the image of the gossiper upon the *ba'al lashon hara*. There are many cases when we can clearly identify speech as *lashon hara* and it is those cases that are in fact the essence of *lashon hara*. But determining what one may or may not say at any given moment is a difficult task. Passing on information that another could use for his business and personal life is in fact a mitzvah and fulfillment of “Loving your neighbor as yourself” *וואהבת לרעך כמוך*.³¹ Even entertaining a friend with something interesting could perhaps be a fulfillment (קיום) of *וואהבת לרעך*. How do I know what is permitted?

Conflicting Obligations

In halachah, as well as in life generally, man is faced with conflicting obligations. Let’s look at an example. Rambam quotes the Talmudic obligation of visiting one’s Rebbe (*Muvhak*) on Yom Tov.³²

One is obligated to greet his Rebbe on the holiday. (*Hilchos Talmud Torah* 5:7)

The *Pri Chadash* could not accept the Bais Yosef’s claim that Rambam rejected the objection of Rav Eliezer in the Talmud who praised those who stayed at home and fulfilled the mitzvah of bringing joy to their wives and families and thus claimed that Rambam is only speaking when the student lives in the same city as his Rebbe. In fact, in *Hilchos Yom Tov* (6:17) Rambam records the mitzvah of rejoicing on the holiday—which requires that one bring

³¹ Of course, in passing on truthful *shidduch* information the question of what to say and what not to say is crucial.

³² והייב לעמוד מפני רבו משיראנו מרחוק מלא עיניו עד שיתכסה ממנו ולא יראה קומתו ואח"כ חייב פשוט פ"ק דקידושין (דף ל"ב). יושב. והייב אדם להקביל פני רבו ברגל. כס"מ (שם) מימרא דר' יצחק ואמרינן התם שר' סוכה פרק הישן (דף כ"ז). 'אדם להקביל פני רבו וכו' מבתיהם ברגל דכתיב ושמחת אתה אליעזר היה אומר משבח אני את העצלנים שאין יוצאים שלא יפה עשה והקשו עליו וביתך. ואמרו שהתלמיד אחד בא להקביל פניו ברגל ואמר לו שהם בתוך התחום או על ידי מהא דרבי יצחק ותירצו לא קשיא הא דאזיל ואתי ביומיה כגון דמשמע התם דדוקא ר"א הוה עירוב הא דלא אזיל ואתי ביומיה. ורבינו לא כתב זה משום סבירא ליה הכי ולכך כתב לדר' יצחק סתם ולא חילק

joy to his wife and family. Rambam's approach in codification is to merely record the two mitzvos in their proper place. When one lives near his Rebbe and can fulfill both with ease, then he certainly must do so. When one obligation interferes with the other, a person must make a choice and Rav Eliezer's common sense is certainly advice we should follow. But all people have different situations. Perhaps a wealthy student can bring his family with him and spend *yom tov* near his Rebbe. Perhaps one who is fairly close in distance can spend a day of *Chol HaMoed* with his Rebbe and return after a night away without detracting much from his family's enjoyment.

A person is often faced with choices, and the one who will make the best choice is the person who has mastered all the principles in the first six chapters of *Hilchos Deos* and has perfected himself. With regard to choices in speech, the first six chapters of *Hilchos Deos* are the preparation for the seventh that deals with *lashon hara*. One can best determine if the speech is proper, by having perfected himself in the mitzvos of *והלכת בדרכיו* and *ואהבת לרעך כמוך*. Rav Yisrael Salanter perhaps argued that it is not possible to give enough rules to guide a person properly. It is also possible that too many rules will cause someone to make the wrong choice. Rav Yisrael felt that Rambam gave seven halachos; they are enough and the rest of one's effort should be spent concentrating on *ואהבת לרעך*.

Legislating Morality

Scottish sociologist R.M. MacIver (1882-1970) is credited with being the first to articulate the concept that morality should not be legislated.

What then is the relation of law to morality? Law cannot prescribe morality, it can prescribe only external actions and therefore it should prescribe only those actions whose mere fulfillment, from whatever motive, the state adjudges to be conducive to welfare. What actions are these? Obviously such actions as promote the physical and social conditions requisite for the expression and development of free or moral personality... To turn all moral obligations into legal obligations would be to destroy morality. Happily it is impossible. No code of law can envisage the myriad changing situations that determine moral obligations. Moreover, there must be one legal code for all, but moral codes vary as much as the individual characters

of which they are the expression. To legislate against the moral codes of one's fellows is a very grave act, requiring for its justification the most indubitable and universally admitted of social gains, for it is to steal their moral codes, to suppress their characters.³³

In fact, the Torah, unlike government, does legislate morality; this is the essence of *Hilchos Deos*. However, MacIver's point, that it is not proper and not possible to "turn all moral obligations into legal obligations" and that "no code of law can envisage the myriad changing situations that determine moral obligations," cannot be denied. The disagreement between Rav Yisrael Salanter and the Chofetz Chaim seems to have been in how far we should go in legislating the details of *lashon hara*.

Mussar and Lashon Hara

We noted above, that much of Rambam's presentation of the laws of *lashon hara* is taken up with *mussar*. There is much *mussar* in *Mishneh Torah*, and its placement is always pointed.

When Rambam details the laws governing the right of a student to begin to teach and determine (*pasken*) halachah (מורה הוראה), he does so as follows:

Not all may sit and teach the law upon the death of their Rebbe, but only a student who has reached a state of competence in the law. Any student who has not reached this stage and yet teaches, is a fool and an evil and arrogant person... So, too, he who is competent and does not teach, withholds Torah and presents obstacles before the blind... These small students who have not grown sufficiently in Torah, and seek to look big before the ignorant and the locals, and jump ahead and sit in the front to judge and to teach in Israel, they are those who create argument, and destroy the world. (*Hil. Talmud Torah* 5:3-4)³⁴

33. *The Modern State*, ch. 5, Oxford University Press (1926).

³⁴ מז ולא כל מי שמת רבו, מותר לו לישב ולהורות בתורה, אלא אם כן היה תלמיד שהגיע להוראה. [ד] וכל תלמיד שלא הגיע להוראה, ומורה—הרי זה שוטה רשע וגם רוח; ועליו נאמר "כי רבים חללים, הפילה" (משלי ז, כו). וכן חכם שהגיע להוראה, ואינו מורה—הרי זה מונע תורה, ונותן מכשולות לפני העיוורים; ועליו נאמר "ועצומים, כל הרוגיה" (שם) אלו התלמידים הקטנים שלא הרבו תורה כראוי, והם מבקשים להתגדל בפני עמי הארץ ובין אנשי עירם, וקופצים ויושבים בראש לדון ולהורות בישראל—הם המרבים את המחלקות, והם

As long as the Rebbe is alive, the *talmid* cannot *pasken* without his Rebbe's permission. But after death he may do so, even though he never received permission (רשות) while the Rebbe was alive. But he must be "worthy of *hora'ah*" ראוי להוראה. Who, then, is to make this decision? The student himself is left to his own judgment. Rambam gives no rules about how this is to be decided—he gives *mussar* and explains how harmful it is to *pasken* when not worthy. But he also explains the importance of doing so, should one be competent. The *mussar* must be absorbed and the former student must make the decision for himself.

So too with *lashon hara*. Rambam's guidance is with *mussar* and to that end the Chofetz Chaim wrote the sefer *Shemiras HaLashon* (שמירת הלשון). It is widely reported that R. Yisrael heartily recommended that everyone read it.³⁵

Doeg the Edomite

המרגל בחברו--עובר בלא תעשה, שנאמר "לא תלך רכיל בעמך" (ויקרא יט,ז). ואף על פי שאין לוקין על לאו זה, עוון גדול הוא וגורם להרוג נפשות רבות מישראל; לכך נסמך לו, "לא תעמוד על דם ריעך" (שם). צא ולמד, מה אירע לדואג האדומי. (הלכות דעות ז:א)

One who reports on others transgresses a *lav*, for it says "Do not go spreading tales amongst the people." And though one is not lashed for this transgression, it is a great sin and causes the killing of many souls in Israel. Thus [the Torah] juxtaposes it to "Do not stand idly by on the blood of your brothers.' Go and learn from what happened to Doeg the Edomite.

With this *mussar*-laden halachah, Rambam begins the laws of *Lashon Hara*. It is because Rambam names Doeg as the classic case of לא תלך רכיל that Bais Yosef and the Chofetz Chaim were led to define *rechilus* as reporting back to another what someone did to or said about him, rather than defining it as mere gossip. *Kesef Mishneh* writes:

A *rachil* is he who says that a certain person said such and such about you, or did such to you, even though that thing was not

המחריבים את העולם, והמכבים נרה של תורה, והמחבלים כרם ה' צבאות. ועליהם אמר שלמה בחכמתו, "אחזו לנו, שועלים—שועלים קטנים, מחבלים כרמים" (שיר השירים ב,ט).

³⁵ See Rav Zelig Pliskin, *Guard Your Tongue*, p. 5.

derogatory about whom it was spoken, as with the informing (הלשנות) of Doeg who reported of Achimelech that he gave bread and the sword of Goliath to Dovid. And had he asked Achimelech, he would not have denied it, for there was nothing shameful in doing so in his own estimation, and on the contrary he thought he was doing a service to Shaul as [he later] said in his own defense. (*Kesef Mishnah, Hichos Deos 7:1*)³⁶

Kesef Mishneh does not clarify what Doeg's intent was. Yet others, based on the chapter in *Tehillim* in which Dovid describes him, assume that he acted with malicious intent:³⁷

2 When Doeg the Edomite came and informed Shaul, and said to him, "Dovid came to the house of Achimelech." 3 Why do you pride yourself with evil, O mighty warrior? The kindness of G-d is all day long. 4 Your tongue devises treachery, like a sharpened razor, that works deceit. 5 You loved evil more than good, falsehood more than speaking righteousness, Selah. 6 You have loved all devouring words, a tongue of deceit. 7 Likewise, G-d will shatter you for eternity; (*Tehillim 52*)

Dovid had immediately blamed himself for not being cautious of Doeg.³⁸ This is aligned with his assessment of Doeg in *Tehillim*. On the other hand, *Tanach* refers to him as "choicest of the shepherds" (אביר הרועים)³⁹ which the Midrash interprets as being the head of the Sanhedrin. Is this the type of person that Dovid should have been wary of? Moreover, for Rambam's reference to Doeg to make sense as we have understood him—that we are to learn from his story what can come of innocent gossip—we must assume that Doeg did not act maliciously. Who, indeed, was Doeg?

Rambam tells us to take heed of "what happened to Doeg the Edomite" מה אירע לדואג האדומי as if to include him as one of the victims. Indeed, this is what the *midrash* does.⁴⁰ Doeg did not antic-

³⁶ עליך כך וכך או עשה לך כך אע"פ שאותו דבר אינו גנות למי שנאמר כמו האומר פלוני אמר על אחימלך שנתן לחם וחרב גלית לדוד ואילו נשאל לאחימלך לא היה בהלשנת דואג שאמר לו דאדרבה חשב שעושה עבודה לשאול כמו שהתנצל בדבריו מכחיש שאין בזה גנות

³⁷ See Mishnah *Sanhedrin* 10:2.

³⁸ I *Shmuel* 1:22.

³⁹ I *Shmuel* 1:21.

⁴⁰ שלשה לשון הרע הורג – See above.

ipate the harm that would come from his report. Perhaps he intended to demonstrate the foolishness of one of his peers, and in this way elevate himself in the eyes of the king—but he did not wish to see Achimelech harmed. But because of Shaul's paranoia he finds himself caught in a web of his own making and is charged with executing the city of priests.⁴¹ The *midrash* says as follows:

It is written “he who covers his hatred will have it revealed in public” (*Mishlei* 26:26)... to make public to the people what his acts are, lest when evil befalls him they will complain against the harsh judgment. Therefore G-d makes known to all his actions. Learn from Doeg who was the head of the Sanhedrin, and because of the trait (מדה) of *lashon hara*, even though he was a *ben Torah*, the Torah revealed that he was a *ba'al lashon hara*... that people not complain against the harsh judgment. Therefore it is written “When Doeg the Edomite came.”⁴² (*Midrash Tehillim* 52)

The story, as it unfolds, is a tragic tale of a great man who innocently related an event he had observed. Through no fault of his own he is forced to kill others and he himself is destroyed. Thus the *mikra* reveals that the *abir haro'im* carried yet another identity, that of the *ba'al lashon hara*. The Torah shows us what harm can come from unwise words. Dovid, Israel's psalmist, who understood the nature of all things and all men, reveals the truth about Doeg—perhaps a truth that he hid even from himself. ❧

⁴¹ I *Shmuel* 1:22.

⁴² דבר אחר בבוא דואג האדומי. זהו שאמר הכתוב (מכסה) [תכסה] שנאה במשאון תגלה רעתו בקהל (משלי כו כו), תני ר' חייא מפרסמין את החנפים מפני חילול השם, שנאמר ובשוב צדיק מצדקתו ועשה עול (יחזקאל יח כד), ולמה נותן הקב"ה דרך רע לפניו, בשביל לפרסם מעשיו לבריות שלא ירע בו דבר בשביל העבירות ויהיו הבריות קוראות תגר כנגד מדת הדין, בשביל כך הקב"ה מפרסם מעשיו למי שהוא מחניף לחבירו, בוא ולמד מדואג שהיה ראש לסנהדרין, שנאמר אביר הרועים אשר לשאול (שמואל א' כא ח), ובשביל מדת לשון הרע אף על פי שהיה בו תורה, פירסמו הכתוב שהוא בעל הלשון, כדי להודיע מעשיו לבריות, שלא יבא ליפרע ממנו, ויהיו קורין תגר לפני מדת הדין, לפיכך כתיב בבוא דואג האדומי