Legislating Morality: The Prohibition of Lashon Hara

By: ASHER BENZION BUCHMAN

Gossip - רכילות

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

יאוה זו רכילה זה שתרחם דבריו רכיל מה לה זכאי וכאמר פלוני כך שמעתי מפלוני אעפ’ שתרחם אמר ויהי זה מחריב את העולם (הלכות דעה ב)

Who is a rachil? 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 זה והוא לשון ההרב תורה אעפ’ שתרחם 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:\footnote{1} אמר פלוני והאומר פלוני אמר עליך קרך ואע cannabin קרא עלייך.

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 רכיל “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 Raavad\footnote{2} and other Risbonim,\footnote{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 lason 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 lason hara.

That Rambam saw the words רقتل לא 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,\footnote{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 רכיל.

\footnote{1} Why he felt compelled to do so (presumably because of Rambam’s reference to רוא, and why this evidence is misleading, will be discussed towards the end of this article.\footnote{2} See Hilchos Deos 7:2.\footnote{3} See Semag, lav 11; Sefer HaChinuch 236; Chofetz Chaim, Hil. Rechilus, Klal 1, Mekor Chaim 2, Be’er Mayim Chaim 3.\footnote{4} השרר בנו וארדע.
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—

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. But the ba’al lashon hara 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 רע שם מוציא and the רע לשון בעל. 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. Yet Rambam uses the term again upon summing up all the types of speech that constitute lashon hara:

ככל אלה--ם בענו לחש ורה. סאמר לחור בשכונתם. והם שמעו לישועם.

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 הולכת בדרכי שמע—“Going in His Ways,” which requires one to emulate G-d’s 13 characteristics. The mitzvah is to be “kind and merciful” חנן ורוחם. Similarly, the other mitzvos in Hilchos Deos are meant to mold character—to create within the person states of being. Thus in the mitzvos of “Loving friends” and “Loving converts” אהבה ואוֹב (לעזר ואהבה ואוֹב) the requirement is that we actually have the love while the prohibition against hating requires that one not have hate in his heart. The physical requirement of “rebuking a transgressor” תוכיח והוכיח בלבי הוא (וראה התורה) is as the mikra suggests an auxiliary mitzvah to the prohibition against hating. Rather than standing by

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5 מי שמרוגל המח

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.

10 לא תשקףו את משלך לבך הלך תותיכי ורא תIMIZE לא תשקףו את משלך לבך הלך תותיכי ורא תIMIZE
in the presence of sin, merely holding the sinners in contempt, one must feel a need to turn the offender away from his path. The admonitions against oppressing widows and orphans are demands for a compassionate soul. The mitzvah of cleaving to scholars is the fulfillment of the Torah command to “Cleave to G-d” —and it is not in actions that we have the fulfillment of the mitzvah but in the dveikus to G-d that this leads to. With regard to “Do not avenge” and “Do not bear a grudge,” Rambam is explicit that the focus of the law is to eradicate negative character traits. 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 in Hilchos Mechirah (14:12).

Just as there is [the prohibition] of ona’ah 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.

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 רכיל תלך is recorded in Hilchos Deos, is because the essence of the

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

12 Deos 6:10

13 Deos 6:2.

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

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

16 See the verses cited above. בד בד: "研讨会, הלוא, סכס סכס תכשח, 본 זיכרון, אמרו לו אורהylon אי ה" (וריא ממל) וריינית בנרי. [ז] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [ב] [b...
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 clothes 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 נולדה הכילה identity that a person adopts for himself. In Brisker terminology it is a a שלשון הרעה on the גברא. 18 יד הרע בלשון שנה מספר, ביתו קירות משתנות. בו חזר אם, הבית טהר; עד ברשעו עמד ואם ישרפו -- שבביתו העור כלי משתנין, עליהן ושוכב יושב שהוא. בו חזר אם, טהרו; ואם שיישרפו -- ויצטרע עורוモンحن, לבדו ומפורסם מובדל ויהיה, בחשח ייתעסק שלא עד רעים, הרע ולשון הליצות והיא. (Hilchos Tzara’as, ibid.) טו ואומר בתורה מזהיר הוא זהaira, בד”כ דברי, ח-ט (וכך הנביאה למרים מ額ה הוא, באומרים על בן הדבורה, ברוכ’ 2.4).anco על פ, כי מדעשת בכדיע בין. ואל אל הבירה הבננה, אלא שלשה שלשה איהו שלשה בראי, והיה לא הוי מקpedido על הנשים, והיהondo שתהיה שלשה וחל權利 מינ.Then הבירה, שנאמר "ויאיש משל, עני ומדא" (במדבר ב.1).�ו נעל מ, כי מדעשת בעבירה. ג"כ את אשוד ההוא מ었던, יאמור בנות מ"רחמר בגון הפרש . .. וזכא, אชำระ שש ח"א, אלחיך לפירס, ב參與 (ברוכ’ כ.2): והיה אפור התא变压 מイメージ המביר, שיר焓בה באהו שלשה געלה מתני בוטו, וידלגל כי על ברכה, וחברון עגננש הלтяלי מיניהם: והיה לא ידיברה בנות, אלא שלשה שלשה איהו שלשה בראי, והיה לא הוי מקpedido על הנשים, והיהondo שתהיה שלשה וחל_rights מינ.Then הבירה, שנאמר "ויאיש משל, עני ומדא" (במדבר ב.1).�ו נעל מ, כי מדעשת בעבירה. ג"כ את אשוד ההוא מ hôn, יאמור בנות מ"רחמר בגון הפרש . .. וזכא, אชำระ שש ח"א, אלחיך לפירס, ב参与到 שיחה שלא עד רעים, הרע ולשון הליצות והיא. (Hilchos Tzara’as, ibid.) טו ואומר בתורה מזהיר הוא זהaira, בד”כ דברי, ח-ט (וכך הנביאה למרים מ額ה הוא, באומרים על בן הדבורה, ברוכ’ 2.4).anco על פ, כי מדעשת בכדיע בין. ואל אל הבירה הבננה, אלא שלשה שלשה איהו שלשה בראי, והיה לא הוי מקpedido על הנשים, והיהondo שתהיה שלשה וחל-rights מינ.Then הבירה, שנאמר "ויאיש משל, עני ומדא" (במדבר ב.1).�ו נעל מ, כי מדעשת בעבירה. ג"כ את אשוד ההוא מ hôn, יאמור בנות מ"רחמר בגון הפרש . .. וזכא, אชำระ שש ח"א, אלחיך לפירס, ב参与到 שיחה שלא עד רעים, הרע ולשון הליצות והיא. (Hilchos Tzara’as, ibid.) טו ואומר בתורה מזהיר הוא זהaira, בד”כ דברי, ח-ט (וכך הנביאה למרים מ額ה הוא, באומרים על בן הדבורה, ברוכ’ 2.4).anco על פ, כי מדעשת בכדיע בין. ואל אל הבירה הבננה, אלא שלשה שלשה איהו שלשה בראי, והיה לא הוי מקpedido על הנשים, והיהondo שתהיה שלשה וחל-rights מינ.Then הבירה, שנאמר "ויאיש משל, עני ומדא" (בmemberOf, ב.1).�ו נעל מ, כי מדעשת בעבירה. ג"כ את א vỏ מrown, יאמור בנות מ"רחמר בגון הפרש . .. וזכא, אชำระ שש ח"א, אלחיך לפירס, ב参与到 שיחה שלא עד רעים, הרע ולשון הליצות והיא. (Hilchos Tzara’as, ibid.) טו ואומר בתורה Mzaier הוא זהaira, בד”כ דברי, ח-ט (וכך הנביאה Lammers מ額ה הוא, באומרים על בן הדבורה, ברוכ’ 2.4).anco על פ, כי מדעשת בכדיע בין. ואל אל הבירה הבננה, אלא שלשה שלשה איהו שלשה בראי, והיה לא הוי מקpedido על הנשים, והיהondo شתהיה שלשה וחל-rights מינ.Then הבירה, שנאמר "ויאיש Mשל, עני ומדא" (בmemberOf, ב.1).�ו נעל M, כי מדעשת בעבירה. ג"כ את א vỏ מחו Mbrown, יאמור בנות M"רחמר בגון הפרש . .. וזכא, Aชำระ שש ח"א, אלחיך לפירס,参与到 שיחה שלא עד רעים, הרע ולשון הליצות והיא. (Hilchos Tzara’as, ibid.) טו ואומר בתורה Mzaier הוא זהaira, בד”כ דברי, ח-ט (וכך הנביאה Lammers מ額ה הוא, באומרים על בן הדבורה, ברוכ’ 2.4).anco על פ, כי מדעשת בכדיע בין. ואל אל הבירה הבננה, אלא שלשה שלשה איהו שלשה בראי, והיה לא הוי מקpedido על הנשים, והיהondo שתהיה שלשה Vחלוים מינ.Then הקימה Mלהpleasant כְּלַא הָדוֹרָה, כּוּלָּה הלמה, מַשְׁתָּקִים מַדּוֹרְכִּים עָפָתָן, כּוּלָּה הָדוֹרָה ומשתיכרנוודכלוים.
lashon 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—וןודע

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.

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)

\(^{19}\) חכמים אמרו, שלוש arbeiyot נפרעים שלמה האדם, בן פרעה שבאו חכמה שמרים, אס דשים איש מש_inputs, הלוכד הרבר פעמיים אנפרט לזרר לא הלפידויים—זרר ההון הרבר, אני כמאמר דרימי פעלים שלוש, בבר נשמת הרבר גרוע, אנ שתפר הלבר אחר משמשות פנים אורות, אני במשמשים הרבר—והוא שלח justifyContent לעבורי הוקי, ענのではないים הדר (שבעה ונה).
Firstly, speaking classic *lashon hara* (המפור בננת חרבו), “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 *אnęła לשו תרצה* *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:

> המפור בננת חרבו, לא מפור בננת חרבו, ולא מפור בננת חרבו, ולא מפור בננת חרבו.

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 הַלֵּךְ לָדַע וְיָרִי, two of them are devoted exclusively to *mussar* (ﾑｓｓａｒ) and two others contain an element of *mussar*. He concludes his presentation as follows.

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\(^{20}\) 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.
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]” ותרכה ב démarche 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 ותרכנו 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.

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\(^{22}\) 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. 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). 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 Yo- nah, 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. 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, Klaal 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 haskamah that recorded that he disagreed with this law and Rav Yisrael refused. 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.

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, 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. 2) Speaking derogatorily is prohibited. This could imply that even necessary negative speech would be prohibited. But let us look at the whole halachah:

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. But the ba’al lashon hara 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 haskamah 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 נצרת, רוחית, 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” האבה לברעך והbrate כמוך. Even entertaining a friend with something interesting could perhaps be a fulfillment of האבה לברעך והbrate. 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.

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 ואני משבח אומרleştir את railways מסנו בלי giết קצרים חמקד או יש לי די ממד אבר 자 AccessToken לא בשים את מאול על המיתannis. האבר אל ודרכו ותרצינ לא קשים את דאודי וארנך thiênון גמר שמשטר הת’étיה או עלי לי. עטרי את או אלי ותורתי. וברבכ את המיתannis. סבראי ליleep כי עוד חשב המזר בדיד זיון סמסת לא חייק.
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 berachos and hailich beyiris. 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 lora.u.

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 (תרע"ג), 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

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34. 
Legislating Morality: The Prohibition of Lashon Hara: 135

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” — he must be associated with the Rebbe. 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

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 לֵבָד רָכִיל 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

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 Golias 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” (הרועים אביר)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” as if to include him as one of the victims. Indeed, this is what the midrash does.⁴⁰ Doeg did not antic-

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³⁶ אמר פלוני האומר כךעשה או כוכס样וגננה נלמי שנהמר כוכס样וגננה פלוני אמר על אחימהולכם להזוור גניה לנו ולאификаל לא היה. בהלשנות זאו שאמר וליאורב heltשה שמעשה שםיה ל/ion לישואל כוכס样וגננה עזרו וקוהי משן בודעה
³⁷ See Mishnah *Sanhedrin* 10:2.
³⁸ I *Shmuel* 1:22.
³⁹ I *Shmuel* 1:21.
⁴⁰ שלושה לושן רוחת מוהרי – 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 (מַדָּה) 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.43

41 1 Shmuel 1:22.
42 מדויח שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מדויח שמעון (משלי כ) יבש ומדוי שמעון, מדויח שמעון, מduto