

HILCHOT RECHILUT: CHAPTER 9

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While Lashon Hara causes damage to the subject (in reputation, finances, emotional anguish or other), Rechilut causes hatred toward the subject, or between the listener and the subject.

Today we begin the last chapter in Sefer Chafetz Chaim, chapter 9 in Hilchot Rechilut, which discusses when someone can speak Rechilut to achieve a constructive purpose.

If Hilchot Lashon Hara, chapter 10, we clarified under what circumstances it is permissible to speak L"H in order to correct a situation, provided that the speaker's only intention is a constructive one (i.e. and not getting even, etc.). In this chapter we will clarify the conditions under which it is permissible to speak Rechilut, if the speaker intends to prevent harm.

[At the end of this introductory paragraph the Chafetz Chaim adds a personal prayer that he should receive Divine guidance so as not to falter in teaching this section. Because of the severity of the transgression of speaking Rechilut, the Chafetz Chaim expresses concern that no one should be misled by his writings and incorrectly infer that something is permissible.]

1. If one person knows that his friend wants to develop an association with someone (in business, marriage, etc.), and he knows that his friend would definitely be adversely affected by such an association, he must inform his friend in order to save him from harm, provided that the five conditions outlined in the next paragraph are satisfied.
2. These are the 5 conditions required in order to speak Rechilut for a constructive purpose:
 - (1) The speaker should take care not to conclude immediately that the subject is wrong, but rather review the matter carefully to be certain that the action (or potential result) is objectively wrong.
 - (2) The speaker should not exaggerate the severity (or degree of violation) of the issue.
 - (3) The speaker's intent should be exclusively for constructive purposes, such as to prevent harm, and not out of hatred of the subject. Included in this requirement is an additional requirement that the speaker make certain that his words will have the desired effect. Sometimes one's efforts for good can result in the opposite: the listener does not heed the speaker's words, but at a later point, when the listener is angry with his partner, he might say, "Now I understand why X (the speaker) warned me about you...." If the speaker recognizes the listener to have a tendency to speak Rechilut (as in this example), he would be forbidden from saying anything since that would cause the listener to speak Rechilut (which is a violation of the prohibition "Do not place a stumbling block before the

blind," also known as "lifnei 'iver").

(4) If the speaker can achieve the constructive purpose with a means other than revealing the negative information to the affected party, he should do so and not speak Rechilut.

(5) The Rechilut may only be related provided that no actual harm comes to the subject. While the negative result of the listener breaking off ties to the subject does affect the subject, that is permissible. However, other negative effect, such as rumors about the subject or loss of business from others, would be prohibited. To speak Rechilut under such circumstances requires additional conditions, which will be discussed in paragraphs 5 and 6. Speaking Rechilut for constructive purposes would also be forbidden if it would cause damages greater than would be decreed by a Beit Din (court of Jewish Law).

[Compare these to the 7 conditions for speaking L"H we discussed in chapter 10 of Hilchot L"H-

(1) The information must be true.

(2) The information cannot be exaggerated.

(3) The speaker should verify that the information is an objective violation of Jewish Law.

(4) The speaker must have pure intentions.

(5) The speaker should first approach the transgressor before resorting to speaking L"H about him.

(6) If the purpose can be achieved in a way other than speaking L"H, that alternative method should be tried first.

(7) The L"H should not cause more damage to the subject that would have been decreed in a Beit Din.]

There is a Jewish concept, "Just as you judge, so shall you be judged," meaning that G-d enforces His standards in the same style that we enforce our own. If we are quick to assume the worst of others, and spread that around by speaking L"H, G-d will allow the angels that assist in judgement (i.e. collecting information) to point out our every misstep. If, however, we give others the benefit of the doubt whenever possible, G-d will judge us more lightly as well.

3. EVALUATING REAL DANGER BEFORE SPEAKING RECHILUT

Now let us clarify another point: how to respond when someone expresses his intentions to harm another. For example, Shimon tells Reuven his intentions to harm Levi; perhaps Shimon says that if he encounters Levi in a particular place he will strike Levi or abuse him in some other way, or perhaps Shimon says he wants to cheat Levi in monetary matters.

Reuven must evaluate whether Shimon poses a real danger to Levi. If Shimon has harmed others in such ways in the past, or if Shimon is not the kind of person to boast about his damaging powers without meaning to take action, Reuven must warn Levi. Levi could then take necessary precautions, and therefore maybe save himself from harm.

Note that Reuven can only warn Levi as outlined by the conditions required to speak Rechilut. This

includes first speaking to Shimon to convince him not to harm Levi (unless Reuven realizes his warning will not help; see later in this section).

4. CONSTRUCTIVE RECHILUT: THE LISTENER MUST TAKE ACTION

Although warning another to prevent harm coming to him is a great mitzvah (positive act) included in the command to promote peace, the speaker must carefully evaluate whether his involvement will have an impact. The listener must follow the advice necessary to prevent harm (in the example above, Levi would have to avoid the place Shimon specified or be very careful there).

Many times the opposite happens. When the listener hears how the subject wants to harm him, he gets angrier with the subject and instigates a quarrel or even attacks first! By speaking Rechilut in this case, a greater "machloket" (dispute) is created, Heaven forbid. For this reason, before speaking Rechilut, a speaker must think carefully about the situation and how he should act.

5. NOT CAUSING DAMAGE TO THE OTHER PARTY

Regarding condition 5, that someone may speak Rechilut to warn one partner about another provided the one partner will not harm the other partner, this is when the partners have not yet finalized their agreement.

However, if the partners have already finalized their agreement (i.e. with a contract or other indication that they cannot go back, according to the laws that govern the type of arrangement), it is forbidden to speak Rechilut if the party being warned will take any action against his partner. After a partnership is finalized, even breaking off the partnership is considered a concrete damage against the other partner.

Even if the action is not more severe than what would be approved by a Beit Din (court of Jewish Law) under the circumstances, it is forbidden to speak the Rechilut. For if this person appeared before a Beit Din, his testimony would not be admitted, since two witnesses are required. The condition not to cause more damage than what would be decreed in a court of law means that if the same group of people involved went to court for a decision.

Only if the listener will not take any action against his partner, but instead use the information to protect himself, it is permissible to speak Rechilut to warn the listener.

If there are two people who witnessed the information which they want to repeat as a warning, and the listener would respond to the Rechilut in a way that would not damage the other party to a greater extent than a Beit Din would decide, they may tell the listener. However, if the listener would take action that would inflict more damage than a Beit Din would decree, even two people cannot tell him the Rechilut.

To summarize: If two parties have already finalized their agreement, someone can only tell Rechilut to warn one party if that will not take action that causes more damage than the monetary judgement

that would be made in that party's favor by a Beit Din; if there is only one witness, the Rechilut may be told only if the party will not take action but only take measures to protect himself.

6. A BEIT DIN MUST BE CONSULTED BEFORE TAKING ACTION

The above leniency of speaking Rechilut based on two witnesses has little practical impact. Although it removes the speakers from the prohibition of speaking Rechilut [because there are two witnesses the information would be taken as testimony in a Beit Din], the speakers may be helping the listener to commit sins.

The listener can only suspect that the information is true and investigate. If he believes it, he violates "b'tzedek tishpot amitecha" [Lev. 19:15 "Judge your people with righteousness," i.e. give the benefit of the doubt; see the introduction to the class].

Further, if the listener is the type to take matters into his own hands, he may take action which is not permitted. It is very difficult for bystanders and certainly the involved party to evaluate how a Beit Din will view the evidence. Therefore, no action should be taken unless a Beit Din authorizes it (see 6:9- 10).

Since it is very unlikely that all the conditions would be present for two witnesses to reveal information to someone for him to take action on it, the witnesses should not repeat the Rechilut to someone inclined to take action unless they are instructed to do so by a Beit Din. By being careful in this manner one avoids making mistakes in matters of speech, and one who guards his speech guards his soul from harm.

7. RESPONDING TO A DAMAGE THAT HAS OCCURRED In order to tell the victim any information regarding harm that someone caused him, the speaker must satisfy all the conditions discussed earlier in this chapter. In addition, before speaking to the victim, the speaker must rebuke the perpetrator for his actions; if the perpetrator does not accept the rebuke the speaker may then discuss information with the victim.

To do less than fulfill these conditions yet tell the victim the information would be forbidden, as we discussed in Hilchot Rechilut 1:3. [There the Chafetz Chaim explains that even if a speaker does not intend to incite ill will between people, but does incite ill will, he is guilty of speaking Rechilut. Therefore, someone cannot say "This isn't Rechilut (sic) - I want to help Reuven get his money back from Shimon." Telling Reuven about what Shimon did to him is Rechilut, and the speaker must satisfy the required conditions before he says anything to Reuven.]

It is also very important to take care not to jump to conclusions and decide who is wrong in a situation; being too hasty to judge against someone can be a violation of Rechilut. [The speaker could be incorrect in his assessment of the situation, and cause much ill will about false information, Heaven forbid.]

8. REQUESTS FOR INFORMATION ARE IRRELEVANT

There is no distinction between a situation in which one's friend asks for information, or one in which one tells the information to his friend on his own. For if all the conditions were met, the person should tell his friend even if he were not asked. And if all the conditions were not met, he would not be allowed to tell his friend.

9. INFORMATION NOT SPOKEN DIRECTLY TO THE VICTIM

One must also follow these guidelines even if planning not to tell the victim, because telling the information to those who care about the victim is also Rechilut, as discussed in Hilchot Rechilut 3:3. [This is because the listener will take offense that someone harmed his friend, relative, child, etc. In that section the Chafetz Chaim also points out that all this speech is considered Lashon Hara, such that the guidelines for speaking L"H must be followed in any case.]

10. Because it is very easy to make mistakes in following these laws, we will explore several examples, and the wise person can apply the concepts from the examples to other situations. For brevity, the Chafetz Chaim discussed one example in this chapter, and put the remainder at the end of the book.

[The example we will discuss regards warning a potential customer so that a shopkeeper does not cheat him.] [For example,] someone sees another entering a store, and he knows the prospective buyer is an unsuspecting person (Heb. "tam", often translated simple or innocent) and not very shrewd, and he knows that the shopkeeper eagerly awaits such customers in order to deceive them. The deception could be regarding the merchandise itself, or distorted weights or other measurements of the merchandise, or some other aspect of the transaction. The observer should tell the customer about the merchant's improper practices, and warn him not to go into the store, even if the customer already established that he would buy from the merchant.

Certainly if the observer knows that a deception is in progress he should warn the customer. Some examples:

- a. If the shopkeeper claims that the merchandise is a specific type when it isn't, even if the value is the same.
- b. If the shopkeeper is manipulating the measurements used to dispense the merchandise.
- c. If the shopkeeper is inflating the price. This is only if the price is inflated more by than one sixth (i.e. one fifth of the correct price); the Chafetz Chaim explains that overcharging by less than one sixth may be permissible.

When informing the customer, the speaker must take care to satisfy all the conditions discussed in paragraph 2 (of this chapter). [In the next few paragraphs the Chafetz Chaim further examines this example, including how to satisfy the conditions.]

11. WHEN A DECEPTION HAS ALREADY OCCURRED

In the previous paragraph, we discussed the case in which the observer wanted to prevent the customer from being cheated. In this paragraph we will consider the case in which a transaction has taken place and the customer was deceived.

Whether the observer can get involved depends upon whether the customer can make a claim against the merchant. For example, if

(a) the amount is not significant enough to warrant a claim (e.g. less than a 20% markup according to Jewish Law), or

(b) the time elapsed is greater than it would take for the customer to show his purchase to another merchant or a relative [who can tell him he was ripped off; this is a sort of statute of limitations in Jewish Law], or

(c) there is any other reason that invalidates the customer's claim, the bystander should not tell the customer that he was ripped off. If the customer has no claim, yet the bystander were to tell the customer that the merchant deceived him, he would be guilty of speaking Rechilut. Discussing the deceit when no legal claim can be made has no purpose other than to incite ill will.

In such a case, even if the customer who was deceived asks the observer, he should not tell the customer the truth. Not telling the customer is especially important if the observer recognizes that the customer might cause the merchant harm, perhaps through bodily harm, or perhaps by not paying the remainder of his bill with the merchant; causing such harm to the merchant is a grave sin.

If, however, the bystander recognizes that the law sides with the customer (either because he can withdraw his participation in the sale, or because he can recover the overcharged amount from the merchant), and if he knows that the customer did not want to be overcharged or cheated, then the bystander must tell the customer the exact truth and prevent his friend [i.e. the customer, his "fellow man"] from fraud.

However, the bystander must take caution regarding the considerations which I will list, as follows...

12. THE FIVE CONDITIONS: ILLUSTRATED

(1) The speaker should not describe the offense in ways that exaggerate its severity.

(2) The speaker must have the intentions of pursuing truth and helping correct the guilty party [i.e. the merchant], as well as helping the customer who has been cheated. Although the Rechilut will reflect badly upon the merchant, the speaker should not take pleasure in his dishonor.

Included in principle (2) is another, and it is very similar: namely, that the speaker should evaluate that a positive outcome can be achieved from the Rechilut. If he knows the nature of the customer as one of words without action, such that the customer will not take the information to a court and ask others to help him pursue his claim, but rather he will only harbor a grudge from the story, and resent and hate the merchant as a result of the Rechilut, it is forbidden to say anything. If the

customer has this nature and requests information from the bystander, the bystander should be especially careful not to say anything.

Regardless of whether the customer would take action or merely harbor a grudge, if the transaction is of the sort discussed in the previous paragraph that can no longer be revoked, it is a mitzvah (positive act) to compliment the customer on his purchase. This is not a violation of "midavar sheker tirschak," distance yourself from falsehood (Ex. 23:7) (as explained in Ketubot 17, where the Sages say that if someone made an unsatisfactory purchase in the market others should praise him for his purchase).

(3) If the speaker recognizes that the merchant will listen to rebuke for cheating the customer, then the speaker should speak to the merchant privately and encourage him to make amends, and should not speak derogatorily about the merchant to others.

(4) If the speaker can achieve his purpose in some other way such that he would not have to speak against the merchant, he should not say the Rechilut and use the other method instead.

(5) The speaker might not be allowed to tell the Rechilut to the customer if the customer is a "Holech Rachil," someone who frequently spreads Rechilut. If the speaker recognizes this trait in the customer, so that the customer will likely turn to the merchant and say "Ploni (the speaker) said that you cheated me in this purchase..." further investigation is required to determine whether it is permissible to tell the customer the truth. By informing the merchant who revealed the deceit, the customer is speaking Rechilut; therefore the speaker would be guilty of helping the customer speak Rechilut. In any case it seems that if the speaker would caution the customer not to repeat his name, and the customer would follow his instruction, it would be permissible for the speaker to tell the customer.

Next week IY"H we will discuss what to do if the customer is the type of person who "takes the law into his own hands."

13. The previous paragraphs [10-12] refer to a case in which the bystander knows the nature of the customer, and knows that the customer will not take the law into his own hands, but rather summon the merchant to a Jewish court ("Beit Din").

If, however, the bystander recognizes that when the customer learns that he has been swindled he will take action on his own - perhaps by inflicting bodily harm or forcing the merchant to take back the merchandise or not paying the remainder of the money he owes the merchant (which he would not be allowed to do without the intervention of a Beit Din) - the bystander should be careful not to inform the customer. Only if the following three conditions are met would the bystander be permitted to inform the customer without being guilty of speaking Rechilut:

(a) The speakers know firsthand that the customer was overcharged according to Jewish law (e.g. there was at least a 20% markup, and the time in which the customer would be allowed to appeal

has not passed). They are not allowed to repeat hearsay that the customer was overcharged.

(b) There must be at least two speakers (i.e. witnesses, just as a Beit Din requires two witnesses to hear testimony for most types of cases).

(c) The speakers' words should not cause more damage than would be reflected in a ruling by a Beit Din. If, however, the speakers recognize the nature of the swindled customer is such that he will cause more than a lawful loss to the merchant, or wouldn't heed the ruling of a Beit Din involving the merchant, it is absolutely forbidden to tell him.

Including the first five conditions [listed in paragraph 12] there are a total of eight conditions which must be satisfied in the case of someone who will act without the authorization of a Beit Din. Fulfillment of these eight conditions is nearly impossible.

Furthermore, although the fulfillment of these eight conditions allows the speaker to speak the Rechilut, it does not exempt him from the prohibition against helping another to sin. For it is prohibited for the listener to take action on the basis of what he is told, even if many people told him the same information. The listener may not take any action until the witnesses give testimony in a Beit Din, and the Beit Din authorizes him to do so, as discussed in Hilchot Rechilut 6:9-10. Therefore, one should be very cautious not to reveal such information to someone who has the nature of taking the law into his own hands without consulting a Beit Din. Refer also to chapter 6.

[Hilchot Rechilut chapter 6 discusses the prohibition against believing Rechilut, even if heard from many people, and even if heard from a reliable person. The listener is only permitted to suspect that the information might be true, and investigate. Therefore, if two witnesses tell a customer that he was cheated, the customer would be forbidden to take action and should instead investigate the matter and summon the merchant to a Beit Din so the matter can be settled according to Jewish law. -ES]

Now, my friends, delve and see, amidst the severe [number of] sins in our generation, how many people stumble in this matter. For once someone takes merchandise from a store and contracts a purchase according to halacha (i.e. by using an action that constitutes transfer of ownership according to Jewish law), and he then shows it to his friend and asks if he got a fair deal, it's bad enough that the friend doesn't praise it as he should (as mentioned in 9:12(b)). The friend even disparages the purchase, saying, "Oh, that shopkeeper really deceived you!"

Sadly, when the friend responds by speaking negatively about the questioner's purchase, he is not evaluating the situation carefully. The friend should review many issues:

(1) He should be sure that he knows the current market value of the item, for prices can change rapidly.

(2) Also, the friend should know how much was overcharged before he speaks, since the amount must be large enough to be recognized as an objective loss by a Beit Din. [This amount is a 20%

markup, explained in more detail in paragraph 12.]

(3) The friend should know when the transaction took place, because the purchaser has a limited time in which to initiate a Beit Din to review his case. [The time limit is called "k'dei sh'yirah l'tagar ul'krovo," the time it would take for him to ask a knowledgeable appraiser or a relative about the fairness of his purchase.] Telling the purchaser when it is too late to summon the merchant to court does nothing other than create hatred between individuals, and is an outright violation of Rechilut.

In many cases when the friend speaks to soon it is because he speaks out of hatred, and after clarification it is revealed that the price was reasonable after all. And in many cases, financial loss is inflicted upon the merchant, because the friend incites the purchaser, "Go and return your purchase and rip it up in front of him. And if you're embarrassed to do it yourself, send it back through someone else. And if he doesn't want to take it back from you, refuse to pay for it, or refuse to pay money you owe him for another purchase." (Often, withholding monies owed is absolutely prohibited, and a flagrant violation of theft and exploitation ("oshek", not paying what you owe someone).) Finally, when the purchaser brings the item to the merchant, and the merchant refuses to take the item back, saying that the purchaser is trying to cause him monetary loss against Jewish law, the purchaser and the merchant begin a dispute and terrible conflicts.

See how much evil this friend has caused:

(a) He violated the prohibition "lo telech rachil b'ameicha," the prohibition against Rechilut (if he didn't carefully follow the guidelines in this paragraph and above). (Lev. 19:16)

(b) He violated "do not place a stumbling block before the blind," since he advised the purchaser to return the item or take other action. (Lev. 19:14)

(c) He instigated a dispute. (Num. 17:5, cf. Sanhedrin 110a which explains this verse forbids us not to maintain disputes)

(d) He violated the prohibition "do not wrong one another" (Lev. 25:17, which forbids saying things that anger or insult others) [because he upset the purchaser]

(e) He violated other negative commandments that arise from a dispute, Heaven save us.

Therefore know how important it is to take care not to get involved in such matters, without first carefully considering all that we have written above. One who is careful in these matters will have G-d as his helper, that no stumbling blocks (or other harm) should arise because of his involvement.

14. Identifying a culprit

[Let us consider the case that] something improper is done against Reuven, but Reuven does not know the culprit. Reuven then asks Shimon, "Who did this to me?" Even if Shimon realizes that Reuven suspects him, he is forbidden to identify the name of the culprit, even if Shimon witnessed it firsthand. Shimon can only reply: "I didn't do this." (This is unless, even if Shimon wasn't suspected or

even asked by Reuven, Shimon would be required to tell him the information, such that all the conditions discussed above from the beginning of this chapter including those in paragraph 7 are satisfied.)

We discussed this earlier in Hilchot Lashon Hara 10:17 regarding L"H, and the reader is advised to review that section closely, for all the issues mentioned there in the M'kor HaChaim (main text) and Be'er Mayim Chaim (commentary on the main text) - regarding both observing the halacha and going beyond the requirements of the halacha - are also relevant to this [Hilchot Rechilut].

Note that in the case of a court decision against Reuven, Shimon is not allowed to indicate which way he voted. [Once a Beit Din makes a decision, the members in the minority are considered having made the decision just as much as the members in the majority, so their individual votes are not publicized.] This is discussed further in Hilchot Lashon Hara 2:11.

15. Rechilut to avoid blame: an example

Now let us illustrate how many err by naming a guilty party; I will give one example and the wise reader can relate the principle to similar situations.

It often happens that someone brings a product to a market to sell it, and many people interested in purchasing it approach him. Commonly, someone who doesn't have money on him selects the item and asks the seller not to sell it to anyone else while he goes to get some money. While the buyer is away, other interested buyers press him to sell the item to them instead, and the seller consents. When the first buyer returns and asks for the item he selected before, the seller replies, "Ploni* came over, and I didn't want to give him the item, but he threw his money at me and took it. Against my will I agreed, because I didn't want to argue with him."

[* Ploni is the Hebrew word for "so-and-so," used in place of a real name.]

By acting this way, the seller flagrantly violates the commandment "lo telech rachil b'ameicha," the prohibition against speaking Rechilut. Although the other buyer pressured the seller, the seller did accept payment so that the transaction is now final. There is no constructive purpose in giving the name of the buyer who pressured him; it only introduces hatred in the heart of the first buyer against the second buyer, which is the definition of Rechilut, as we discussed in 1:3. Also, the violation identified in this example resembles in all its details the issues we discussed above in paragraph 14.

Moreover, as is sometimes the case, the second buyer didn't pressure the seller so much, and the seller didn't tell the second buyer that someone else had already decided to buy it. The seller acted exclusively for his own good, for whatever reason he had (perhaps he knows the second buyer better, or the second buyer is offering more money, or the second buyer is a better customer in general). However, in order to prevent the first buyer from being angry at him, he distorts the truth with his words: he transfers the responsibility for the offense from himself to his friend [the second buyer]. This is certainly a grave sin, because it is considered "motzi shem ra" (lit. giving a falsely

negative name), and all the commandments - both positive and negative - that we discussed in the introduction are violated.

One must be very careful in a case such as this not to identify the name of the second buyer that purchased the item, even if the seller tries to convince the first buyer that he himself was to blame, by saying, "I made the mistake, because he wasn't aware that you previously told me you would buy it." [Even so the seller shouldn't reveal the identity of the second buyer], because it is typical for the first buyer to feel hatred toward the second, since the first buyer will suspect that the second is trying to harm his livelihood. The seller should only reply: "I mistakenly sold it to someone else."

"Tamu haklalim mehilchot isurei lashon hara u'rechilut." The klalim (paragraphs or halachot) of the prohibitions of L"H and Rechilut are complete!

Congratulations, we have completed our first cycle through Sefer Chafetz Chaim. Over the next 2-3 weeks I hope we'll do some review, and keep working on all those tough shmirat halashon questions.

It is customary upon completing something, to start it over again immediately. Let's look at the introduction to Sefer Chafetz Chaim, which we will be studying again in a few weeks:

There are 31 Torah commandments which speaking Lashon Hara and Rechilut could violate. The first one that the Chafetz Chaim lists is "lo telech rachil b'ameicha," do not go about as a talebearer among your people. This commandment is the central prohibition against both Lashon Hara and Rechilut.

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