

# CHAPTER 7, LAW 5 - WORDS THAT KILL

by Rabbi Dovid Rosenfeld

***[The speaking of lashon hara (slandorous gossip) is forbidden] whether one speaks lashon hara in front of his fellow (i.e., the victim) or not in his presence.***

***One who speaks words which, if spread by word of mouth (lit., 'if they are heard a man from the mouth of a man'), will cause damage to one's fellow, whether physical or financial, or even if [the words will merely] distress or scare him, this is considered lashon hara. If, however, such words were stated in front of three [people], the matter [is considered to] have already been heard and become known. And [so], if one of the three tells over [the report] another time, it does not constitute [speaking] lashon hara. This is provided he does not intend to [further] spread the report or reveal it further.***

For the past few weeks the Rambam has been discussing the transgression of lashon hara, of spreading (or accepting) malicious gossip. We have thus far discussed the scope and severity of lashon hara, as well as the less severe "dust" of lashon hara. This week the Rambam focuses on an important detail of this law, resulting in a significant distinction in Jewish law.

The Rambam begins by stating that there is no difference whether the victim of the gossip is or is not present when I speak about him. One might have thought that if the butt of my remarks is present -- and appears to be laughing along with everyone else -- he clearly doesn't mind my talk. Alternatively, perhaps the fact that I am saying it to his face indicates that I don't mean it maliciously but am just making a harmless, cutesy remark.

No such distinctions, however, are made in Jewish law. The victim may be laughing along (even louder than the rest) to save face. He may in fact not really know **how** to act in so awkward a situation (and may be even more mortified later when he considers that he himself went along with the entire ordeal). Lashon hara is lashon hara. In fact the work Choftez Chaim (lit., "desires life", Intro., Negative Prohibition 14), authored by R. Yisrael Meir Kagan (1838-1933, widely regarded as spiritual leader of late 19th and early 20th Century Lithuanian Jewry), points out that speaking in front of the victim may be more severe than behind his back. If the speech embarrasses the victim, the speaker transgresses Leviticus 19:17, which forbids shaming another human being.

The Rambam then introduces a different type of lashon hara altogether. Up until now we have been assuming lashon hara to be the type of talk we think of as gossip -- the derogatory, the scandalous, the calumnious, the salacious, nasty rumors quietly whispered behind the victim's back.

There are, however, other types of information which while not scandalous, should not be spread unduly. Say Joe suffers from asthma, underwent a bout of cancer, has a false leg, was adopted, is a convert, etc. There is nothing "bad" about such information per se. But for whatever reason Joe prefers such facts not be spread about needlessly. He doesn't want to appear different from everyone else. The information is not derogatory, just personal.

Likewise, let's say Joe suffers from minor health problems or is on medication for depression or compulsive disorders. He may never be considered for employment opportunities or as a marriage prospect. Given half a chance, he could easily prove himself in spite of his disabilities (sometimes in fact because of them). Yet he never **will** be given that chance, once he's "labeled" in everyone's mind as "challenged". Thus, such information is not only personal; it can easily cause a person irreparable damage.

(A while back, I was talking to someone who was involved in arranging a match between a young woman and a fellow on medication for obsessive-compulsive disorder (OCD) (one reason the example came to mind just above). Jumping a bit ahead in our topic, on the one hand it is strictly forbidden to withhold relevant information which the other party would certainly want to know about. Yet on the other, if such information is presented up-front, a possibly suitable match will never even gain consideration. Of course, each such case must be considered individually by a competent rabbinic authority. But at times a rabbi will recommend withholding the information for the first couple of dates -- not too long and not too short -- giving the prospective partner a fair chance, yet before the two parties are too emotionally involved to address the issue objectively.)

Returning to the case at hand, this type of speech is the subject of the Rambam's law this week. He states that information which will possibly damage or distress the victim if spread is too considered lashon hara. Anything Joe would prefer not be known about him -- whether for rational or not so rational reasons -- is considered his own affair, and his wishes must be respected.

Regarding this, however, the Rambam makes an important distinction. The above is the case only if the information is not that well known. If, however, the news is already out -- say Joe snores so loud at night his entire block knows about it anyway already -- then it is not lashon hara to repeat it. Any information which has generally become known -- and the Rambam (based on Talmud Erchin 16a) takes this as far as three people knowing about it -- is considered to have entered the public domain. As the Talmud puts it, "your friend has a friend." It doesn't take long for news to spread the town over (and with today's communications, the world over). And so, we can no longer say such information "damages" Joe. The damage has already been done. The information **is** known. Your repeating it one more time does nothing which was not already bound to happen.

A similar example, also brought in Jewish law (Chofetz Chaim 2:13), is if Joe has a shortcoming which he's very open about. Say Joe grew up in an abusive home or has a health problem. We might think of such information as negative and potentially damaging and so forbidden to repeat. But if Joe

himself is generally very open about his past or his faults and clearly does not mind such information getting around, it is not "gossip" to spread it further.

All of this raises an important issue. The Rambam never distinguished between known and unknown information regarding scandalous gossip, only this week regarding **damaging** speech. In other words, only here while discussing damaging information did the Rambam state that if it's anyway generally known it is permissible to repeat. He never made such a distinction regarding the other type of lashon hara -- the scandalous. Presumably, even if everyone knows A had an affair or was convicted of tax fraud, it is still technically forbidden to repeat it. What is the difference between the two types of gossip?

The answer is as follows. There are two basic aspects to lashon hara. The first is that it is lowly to speak derogatorily of another human being. The second is that the negative words themselves may damage Joe or his reputation. Regarding slanderous lashon hara, both aspects apply. Focusing on and discussing Joe's misdeeds is lowly in itself. And further, such information can unduly harm his reputation. Regarding damaging lashon hara, however, only the second aspect is relevant. It may certainly harm the victim if word of his handicap or health problem is needlessly spread. Yet there is nothing "fiendish" about speaking about them. Saying Joe has a heart condition is not lowly; saying he is a blabbermouth is.

Based on this, the above distinction becomes clear. Regarding damaging gossip, once the word is out the damage has already been done. I add nothing by repeating it one more time. Regarding slanderous gossip, however, even if everyone knows Joe is a drug dealer, it is lowly to speak of Joe's sinfulness (unless I'm warning people to stay away from him -- or not to take closed packages on international flights for him), and so repeating it is still considered lashon hara.

Lastly, with this we can understand the Rambam's final point. The Rambam added that although it is permitted to repeat damaging information which is already known, I may not do so if my intention is to malign him and broadcast his shortcomings. If it happens to come up, or I'm speaking sympathetically about my friend Joe, that is one thing: I am neither damaging him nor acting basely. If, however, I want to put him in his place -- even if the fact that he has a learning disability is hardly his fault, I once again am acting lowly and such speech would be forbidden. And similarly, as stated in other works of law, if the **listener** looks down on Joe because of his fault, I likewise may not convey the information to him, as the listener would be acting basely to accept a report which in his eyes puts Joe down.

I'll just conclude this class with a quick disclaimer. Although this week we have been discussing important principles in Jewish law, I should warn my readers that our discussion has still been very high-level. I had to omit many other relevant principles which either did not relate too closely to the Rambam's point or which were beyond the scope of our discussion. Therefore, I ask my readers not to rely on this lecture to decide matters of Jewish law. More specific questions should be directed to

your local Orthodox rabbi (or perhaps posed to an on-line Ask the Rabbi service).

(The basic approach above was pointed out to me by R. Yitzchak Berkovits of Jerusalem.)

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