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In memory of their parents Dr. Irving & Mrs. Bernice Mehler & Mr. Gedalja & Mrs. Miriam Zupnik

לעילוי נשמת ר' יצחק מאיר בן אליהו ובריינא בת אברהם ע"ה ור' גדליה בן אברהם מנחם הכהן ומרים בת ישראל ע"ה

Lashon Hara Lito'eles

Rabbi Yosef Melamed

May one share negative information relevant to a potential shidduch or partnership?

Is there a difference between being asked for information and offering it?

The laws of *lashon hara* are numerous and can, at times, be quite complex. In particular, speaking *lashon hara* for a constructive purpose (to be referred to as *li'toeles* henceforth) contains many intricacies and details. This article will attempt to offer general guidelines regarding the specific cases of *shidduch* (matchmaking) and business partnership information. This will aid in understanding these halachos and for preparing one to further discuss them with a halachic authority when the situation arises.

[Note: Throughout this article, Sefer Chofetz Chaim Hilchos Lashon Hara will be referenced as C.C.L.H., Sefer Chofetz Chaim Hilchos Rechilus as C.C.R., and Be'er Mayim Chaim (the commentary on the two aforementioned works) as B.M.C.]

The Prohibition of Lashon Hara

Lashon hara is defined as any disparaging speech that will cause damage or harm to another Jew (Rambam Hilchos De'os 7:2,5). This includes physical harm, financial loss, and emotional pain and hurt (ibid.:5). The prohibition of *lashon hara* is not exclusive to oral communication. Rather, it includes any form of communication such as bodily gestures or written communication (C.C.L.H. 1:8 with B.M.C. 12 and 13). This also includes revealing media (e.g., pictures or recordings) which will cause a person damage or embarrassment (C.C.L.H. 1:1 with B.M.C. 14 and C.C.L.H. 4:B.M.C.:8). Speaking *lashon hara* violates the commandment (Vayikra 19:16) against gossip-mongering (Rambam ibid.:1,2; C.C.L.H. 1:1). The Chofetz Chaim explains that this prohibition is the only one specifically prohibiting speaking *lashon hara*; however, there are 31 other possible transgressions of either positive or negative Torah commandments not specific to speaking *lashon hara* that one may incur through speaking *lashon hara* (C.C.L.H. 1:2; Introduction to Sefer Chofetz Chaim).

Situations where Lashon Hara is Permitted

There are certain, specific situations, however, where speaking *lashon hara* is permitted. One of those situations is where sharing the damaging or disparaging information will result in *to'eles*. An examination of the sources of these halachos will be helpful for understanding these laws properly.

The Chofetz Chaim (C.C.L.H. 10:B.M.C.:1) cites Rabbeinu Yonah (Sha'arei Teshuva 221) who writes that a bystander who witnesses one person attack or damage another may reveal what he has seen in order to help the victim recover his loss or in order to denigrate a wrongdoers so as to prevent others from learning from their ways¹. Rabbeinu Yonah proves this from the Scriptural allowance for a single witness, who is not normally believed in Jewish court, to testify in monetary matters in *bais din* (Jewish court) in order to require a *shevua* (oath) from the defendant. This oath could result in the claimant recovering his money in the event that the defendant refuses to swear. It can be seen from here, says Rabbeinu Yonah, that *lashon hara* is only forbidden when spoken for non-constructive purposes. However, when speaking the *lashon hara li'toeles*, such as in the above case of obligating a *shevua*, it is permitted

(B.M.C. ibid.).

In another place (C.C.R. 9:B.M.C. 1), the Chofetz Chaim proves that in a case where someone is vulnerable to suffering a loss due to lack of pertinent information about someone, one is not only allowed to speak *lashon hara li'toeles*, but one is obligated to do so. Preventing such a loss is required by the commandment known as *lo sa'amod*, "Do not stand by your fellow's blood" (Vayikra 19:16), which, the Chofetz Chaim explains, refers to preventing another from suffering physical or financial damage (ibid. based upon Toras Kohanim Kedoshim 4 and Rambam Sefer Hamitzvos Mitzvas Lo Sa'asei 297).

The Reasoning for the Heter

Why does the *heter* (permissibility) of *to'eles* require two sources (one from the single witness and one from *lo sa'amod*)? The *heter* of a single witness is necessary since *lo sa'amod* does not apply to every situation where it may be permissible to speak *li'toeles*, such as the single witness case itself (see C.C.R. 9:B.M.C. 1). On the other hand, *lo sa'amod* teaches a novel rule, since it not only permits *lashon hara li'toeles*, it obligates it.

There is another possible need for *lo sa'amod*, as follows: There seem to be two different aspects to the prohibition of *lashon hara*. The Chofetz Chaim rules that the prohibition of speaking *lashon hara* applies even where the speaker knows that no harm will occur as a result of his speech (C.C.L.H. 3:6). This is because the Torah does not want one to speak negatively about another due to the inherent malicious nature of such speech, regardless of whether harm is being caused to another (ibid.:B.M.C. 7). However, the prohibition of *lashon hara* also includes causing halachically-undeserved harm to another Jew through one's words, even where the words themselves are not inherently negative (B.M.C. ibid.; see Rambam Hilchos De'os 5:7 and C.C.L.H. 3:B.M.C.:3). Based on this, whenever we consider a *heter* of *to'eles*, we need to consider both of these aspects.

In a case where speaking negatively about another Jew is not causing undeserved harm, such as in the case of disparaging the ways of a wicked person, who deserves to be shunned according to halacha (in the specific scenarios explained by the Chofetz Chaim in C.C.L.H. 4 & 10), one may speak *lashon hara*. Since the nature of the talk is constructive (in that it encourages others to avoid the ways of the sinner) and does not cause undeserved damage, it does not contain either aspect of *lashon hara*, and is thus permitted. This is deduced from the *heter* of the testimony of a single witness, where the nature of the *lashon hara* is constructive and the one testified against is also in the wrong.

When the Chofetz Chaim later provides the reason of *lo sa'amod*, he is dealing with a situation where the party being spoken about will suffer harm that is not mandated by halacha; the first *heter* of *lashon hara* spoken constructively would not suffice. However, when applicable, the commandment of *lo sa'amod* overrides the concern of that harm and obligates the bystander to share the information with the relevant party.

Conditions Required for Speaking Lashon Hara Lito'eles

Even where *lashon hara* is permitted *li'toeles*, there are still several conditions

¹ The latter, in addition to the other requirements for general *to'eles*, is only permitted in even more specific circumstances; see C.C.L.H. Chs. 4 and 10 at length.

that need to be adhered to, enumerated in Sefer Chofetz Chaim (C.C.L.H. 10:2 And C.C.R. 9:2²):

1) When relating information in order to prevent a loss, one must first ascertain that the situation one is trying to prevent indeed has the potential to be detrimental to one of the relevant parties. This can be difficult, as oftentimes, the nature of a potential loss or detriment can be quite subjective and can vary with even slight changes of details of a given situation. Thus, the Chofetz Chaim (ibid.) urges the speaker to first thoroughly deliberate and weigh the situation in order to determine the detrimental nature of what is being prevented before speaking.

2) Assuming one is allowed to share disparaging information, one must be careful to be accurate and not exaggerate any of the information. Included in this is not adding or leaving out any details that can make the information seem worse than what it actually is (C.C.L.H. ibid.:14).

3) Since the *heter* to speak *lashon hara* is because it is *lito'eles*, one must ensure that this is one's motive, and that one is not being driven in any way by spite or anger toward the party being spoken about. The Chofetz Chaim (C.C.R.:9:B.M.C.:3) explains that this does not mean that someone who does have ill feeling toward the party being spoken about is absolved from helping the other party involved. Rather, it means that even in that case, he must work to put his feelings aside and concentrate on the *to'eles* purpose of his speech.

4) The *to'eles* will actually come to fruition. This precludes a case where one knows that warning one party will not lead them to act upon the warnings and avoid the danger. As such, the *lashon hara* is not actually creating a benefit and is not considered *lito'eles*.

5) The speaking of the *lashon hara* is the only possible course of action to bring about the *to'eles*. This includes not revealing any more information than necessary in order to bring about the *to'eles*, even in a case where one needs to relate some disparaging information (C.C.L.H. 10:B.M.C. 11; see also C.C.L.H. ibid.:14 with B.M.C. 38). It also means that if one can achieve the *to'eles* through some other means besides sharing the negative information, one must use the alternate approach.

It is additionally important to note that the party receiving the negative information is not allowed to accept the information as truth³, nor spread the information further (C.C.L.H.:4:1,6:2 and 10:B.M.C. 5). There may be certain instances where non-verified *to'eles* information may be passed on for further *to'eles* purposes; a halachic authority should be consulted.

Practical Application

Sharing information which will cause a benefit, such as obtaining a job or *shidduch*, to be withheld from another is prohibited as *lashon hara* (C.C.R. 9: Preface to B.M.C. and fn.; C.C.R.:Examples of Rechilus 1), as causing a potential benefit to be withheld is regarded as harm for *lashon hara* purposes. Nonetheless, a person who is looking into the possibility of doing a *shidduch* or forming a partnership may inquire about the potential second party involved in order to ensure that he or she will be a proper fit and to ensure that the *shidduch* or partnership will not result in a loss or damage (C.C.L.H. 4:11). When doing so, however, the inquiring party must preface the inquiry with the explanation that the inquiries are for the purposes of *to'eles* (e.g., "I am calling about a *shidduch*," or "I am calling to inquire about creating a partnership with

²The Chofetz Chaim (ibid.) enumerates additional requirements for specific types of cases; only those relevant to the standard case of *to'eles* will be mentioned here.

³One may not accept a *lashon hara* report as fact. However, the Torah still allows a person to suspect the information may be true to the extent that he may take steps to protect himself from harm or, when relevant, to properly investigate and see if the alleged facts are, indeed, true. (C.C.L.H. 6:2 and 6:10 based on Niddah 61a). Since one may not believe the *lashon hara*, one may neither spread it nor take action in a way that a *bais din* would not sanction based on the testimony of a single witness (C.C.L.H. ibid.:11). Regarding passing along non-verified *lashon hara*, there may situations where this is warranted; a halachic authority should be consulted.

so-and-so."). Otherwise, the questioner will transgress the Torah prohibition of *lifnei iver lo sitein michshol*⁴ (Vayikra 19:14) by causing the person providing the information, who will be unaware that the inquiry is *li'toeles*, to speak *lashon hara* in a way that is not sanctioned by *to'eles*. Although *to'eles* from what he says may occur, he will still be missing the above prerequisite of intent for *to'eles* (condition 3 mentioned earlier) and transgress speaking *lashon hara* (C.C.L.H. ibid. with B.M.C. 46). Once informed that this is *lito'eles*, the party being asked may answer the inquiry, even if the information offered is negative⁵.

The *poskim* make the following distinction: In a case where someone ascertains that actual damage⁶ will occur to one of the parties involved, such as where the other party has a serious illness or serious spiritual flaw in the case of a *shidduch*, or where the proposed partner is not responsible or trustworthy, one must voluntarily offer that information to the relevant party (C.C.R. 9:1 and C.C.R.: Examples of Rechilus 1, 8). One must ascertain that the reality currently unknown by the other party will be a true source of damage (C.C.R. ibid. and C.C.R.: Examples of Rechilus B.M.C.:8). This can be very difficult to ascertain, and a halachic authority must be consulted for more details⁷. However, in a situation where someone looking into a potential spouse or partner will not actually end up in a situation that will cause either physical, financial, or mental/emotional harm, but will merely end up with a less-than-ideal spouse or partner, it depends on the following: If the relevant party solicits such information, one may relate that information for *to'eles* purposes, but is not obligated to do so (C.C.R.: Examples of Rechilus B.M.C. 1 and Chut Shani Hilchos Shemiras Halashon 7:1 s.v. *vilichora*; see also ibid. 7:2 fn. 2). The information may be given, or the person asked may answer that they do not know the answer about the party inquired about (B.M.C. and Chut Shani ibid.). However, when the information is not specifically requested, it is prohibited for one to volunteer it (C.C.R. Examples to Rechilus footnote to one and B.M.C. 1). There is a great deal of discussion as to the reasoning for this distinction which is beyond the scope of this article.

There is an important addendum to the above discussion. The Chofetz Chaim (C.C.R.:Examples of Rechilus 2,3) cautions that even where one is not sharing information (based upon the above discussion), he must be careful not to endorse the *shidduch* or partnership if the details being withheld may be a turn-off for the inquiring party. It is considered *lifnei iver* to offer counsel which is not in the best interest of the party being counseled.

In conclusion: The prohibition against *lashon hara* is quite serious and includes many different prohibitions and commandments. However, there are certain situations where speaking *lashon hara* is warranted and sometimes actually required. A greater awareness of the pertinent laws and further discussion with a halachic authority enables one to navigate those situations according to halacha.

⁴ Lit. "Do not place a stumbling block before a blind person," which includes giving someone bad counsel, as well as assisting someone in sinning (Toras Kohanim Kedoshim 3 and Avoda Zara 6b).

⁵ One should note that often, the information does not constitute *lashon hara* in the first place and the requirements for *to'eles* do not apply. For example, by a *shidduch*, "Is this boy tall or short?" "Which yeshiva did he attend?"; by a partnership, "Is this prospect interested in a full or partial partnership?" "Does he like to travel or does he prefer to remain home?"

⁶ As a general guideline, actual damage regarding a *shidduch* or business partnership refers to something that will inhibit the spouse or partner from fulfilling his or her regular duties as a spouse or partner. However, as it is indeed difficult to determine what is included in this guideline, and there may be other situations considered actual damage not included in this guideline, a competent halachic authority must be consulted on a case-by-case basis.

⁷ Although we will soon explain that one may choose to give information even when not preventing actual damage, this is only permitted when the information is requested. Additionally, the nature of such information is that if it is spread, it can be very damaging; as such, this is a delicate situation that requires the guidance of an experienced halachic authority.

Points to Ponder:

Does the heter of lito'eles change if one knows the recipient of the information will accept it as fact?

May negative information be conveyed once the shidduch or partnership has already gone through?

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