

Loshon Harah in Business : Part I Shiur

THE HETER OF L' TOELES

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A TRANSCRIPTION OF THE YORUCHA CURRICULUM WEEKLY SHIUR VIDEO

THE HETER OF L' TOELES:

It is well known that while it is forbidden to speak *Lashon Hara*, it is permitted to do so *l'toeles*, for a beneficial purpose.

This is hard to understand, as we do not find such a leniency regarding any other prohibition. For example, it is not permitted to steal or to eat non-kosher food even if there would be some benefit in doing so. It's true that we do find Rabbinic prohibitions that contain leniencies for a specific benefit. For example, it is permitted to eat on Taanis Esther when there is a great need to do so and, in some instances, it is permitted to transgress a "*sh'vus d'sh'vus*" (double Rabbinic prohibition) on Shabbos for the benefit of the public; however, no such leniency is ever found for an *issur d'ohrasya*, which *Lashon Hara* is. If so, why is it permitted to speak *Lashon Hara* for a *toeles*?

EXPLANATION #1. TOELES IS NOT LASHON HARA:

One explanation that is suggested is that the verse only prohibits *Lashon Hara* in a case where one is being "*holech rochel*", acting "like a peddler" by going around and gossipmongering. If, however, there is a good reason why one is relating this piece of information, he is not acting like a peddler and such speech is not gossip; therefore, it does not fall under the prohibition of *Lashon Hara*.

While this is a nice idea, there are several problems with it. First of all, the Chofetz Chaim barely mentions this concept. He does briefly quote a Rashbam that says something like that, but throughout his sefer he only mentions it that one time. Secondly, the Chofetz Chaim says in his introduction that one who speaks *Lashon Hara* potentially transgresses a number of other prohibitions besides "*lo seilech rochel*." He says that if the one being badmouthed is a kohen, the speaker transgresses the prohibition of dishonoring a kohen. If he is a *ger*, one transgresses the prohibition of causing pain to a convert. If it is one's parent, he transgresses the commandment to honor one's father and mother. Accordingly, in all these cases, even if the *Lashon Hara* is *l'toeles*, it should still be forbidden. If the reason *Lashon Hara* is permitted for a *toeles* is that it does not constitute *holech rochel*, it still would be prohibited if the subject is a kohen, *ger* or parent, etc. The Chofetz Chaim, however, does not make this distinction.

EXPLANATION #2. AVAD INISH DINAH D'NAFSHEI:

There is a more comprehensive answer that is found throughout Sefer Chofetz Chaim.

There is a halacha called "*avad inish dinah d'nafshei*", which basically means that a person can take the law into his own hands to prevent

himself from being harmed by someone else. For example, if someone sees his friend's ox charging towards his cow, he is allowed to kill it before it gets the chance to hurt his cow. Furthermore, the Rosh rules that one is allowed to act in this manner even if he is doing so to protect someone else and not himself. If someone sees Reuven chasing Shimon with intent to harm him, he is allowed to strike at Reuven to stop Shimon from getting hurt.

Accordingly, the Chofetz Chaim says that one is permitted to tell his friend that someone else stole from him or harmed him in some way and he can also tell others about this if it will be beneficial in the sense that publicizing this knowledge could help the victim and prevent others from being hurt by the same perpetrator. The Chofetz Chaim rules that as long as seven conditions are met, this is permitted because it will prevent future damage. In other words, it is the same halacha as *avad inish dinah d'nafshei*.

Rav Mendel Shafran shlit"a adds that the Chofetz Chaim's seven conditions are identical to the conditions needed to permit *avad inish dina d'nafshei* in a case of physical damage. For example, he says that before one speaks *Lashon Hara* for a *toeles*, he has to know for certain that it is true and has to solely have the welfare of the victim in mind. These conditions apply to cases of physical danger as well, which proves that the *heter* is the same.

If this is the justification for permitting relating *Lashon Hara* for a *toeles*, we would have to add that it would only be permitted in cases where the one being spoken about presents a danger that has to be stopped to avoid causing someone harm. Otherwise, there would be no *heter* of *toeles*. To illustrate with an example: A *yungerman* is tutoring a bochur who has a weak head and wants to give him some *chizuk* by telling him that such-and-such Rosh Yeshiva also had a weak head as a bochur and is not especially intelligent, but he still reached great heights in leaning. Is this permitted?

If the reason *Lashon Hara l'toeles* is permitted is to prevent damage, it would seem that the *heter* would not apply in this case, as no one is in danger of being damaged, and the Rosh Yeshiva, who may be insulted by having his weak intellect publicized, is certainly not a damager.

BOTH HETERIM ARE TRUE:

As we mentioned previously, the Chofetz Chaim does cite a Rashbam that says the first explanation we cited, although he mainly focuses on the second explanation. We can perhaps explain this incongruity as follows:

The Chofetz Chaim quotes the Rambam as saying that there are two aspects to the prohibition of speaking *Lashon Hara*. He says that if one speaks badly about his friend, even if it doesn't cause any loss, or if one says something that could cause his friend a

monetary, physical or emotional loss, it is prohibited as *Lashon Hara*.

He seems to be saying that there are two separate types of *Lashon Hara*. 1. It is *Lashon Hara* to speak negatively about someone else, even if there is no harm caused. Even if the information is already known to the listener, it is forbidden to repeat to him because it is wrong for the speaker to say such things. 2. One is forbidden to cause any type of harm to someone else through his speech. Even if what he says is not derogatory, it is forbidden to say if it will hurt someone. An example of this would be if someone says "Reuven has average strength." This is not really derogatory, but what if Reuven works as a furniture mover and people hire him because they assume he is very strong? In such a case, saying he is of average strength could cause him a loss of income and would be prohibited.

It seems that the first type of *Lashon Hara* is actually a prohibition *bein odom l'makom*. It does not really impact the one being spoken about at all but is prohibited by Hashem because He doesn't want the speaker to speak in this way. The second type is clearly *bein odom l'chaveiro*, as one person is harming another.

Having explained this, we can understand why we have two separate *heterim* for speaking *Lashon Hara* for a *toeles*. In the case where the prohibition is only *bein odom l'makom*, and no harm is being caused to the one being spoken about, we can say that if the words being said are not gossip and have some reason for being spoken, it is permitted. This *heter*, however, would not suffice in a case where someone is being damaged and the prohibition is *bein odom l'chaveiro*. In such cases, we need the *heter* of *avad inish dina d'nafshei*.

Returning to the case of the Rosh Yeshiva with the weak intelligence, we can now say that if saying this would not cause him any damage or pain, it would be permitted, as there is a benefit from relating this information and it is not gossip. If, however, it will harm the Rosh Yeshiva in some way or cause him pain, it would be forbidden *bein odom l'chaveiro* and there would be no *heter*.

UNVERIFIED INFORMATION:

This explanation can also explain a seeming contradiction in the Chofetz Chaim. In one place, the Chofetz Chaim writes in the name of the Rashbam that if you believe that someone is a thief, but do not know this with 100% certainty, you are allowed to relay this information, as long as you make sure to tell the listener that you are not positive about this. In another place, however, he says that if one is uncertain if his friend did something wrong, he himself is not allowed to believe it and he certainly can't tell others about it.

The Chofetz Chaim himself notes this apparent contradiction and answers it by saying that the Rashbam is speaking about a case where no harm will befall the suspected thief by relating that you suspect him. Perhaps people will be a bit more careful with their valuables in his presence, but his life will not be negatively affected. According to our explanation, we can say that since the one being spoken about will not be harmed, the only reason it would be forbidden to relate the information in such a case is the *bein odom l'makom* prohibition. Since there is a benefit in relating the information, it is deemed a *toeles* and is permitted because it is not gossip.

On the other hand, when the Chofetz Chaim rules that it is prohibited to say something negative about a person if one is not

certain it is true, he is speaking about a case where the person will be harmed; therefore, the only *heter* is *avad inish dina d'nafshei* as this is a prohibition *bein odom l'makom*. And that is not permitted in a case of uncertainty.

DEFINING DAMAGE:

As we said, *avad inish dina d'nafshei* is only permitted if the one being harmed to save someone else is a damager. If he isn't harming someone else, it is forbidden to harm him in any way. There are, however, two instances in the Chofetz Chaim where he permits speaking *Lashon Hara* for a *toeles* even though it seems that the one being spoken about is not a danger.

In one instance, he says that if Reuven hurts Shimon and Shimon feels the need to share his pain with someone else in order to alleviate his suffering, he is permitted to tell his friend what happened because this is considered a *toeles*. This is permitted even though Reuven no longer seems to be a danger to Shimon. Upon closer inspection, however, it can be said that Reuven did not only harm Shimon in the past; he actually is still harming him, which is why he feels the need to unburden himself and share his pain with his friend. Accordingly, Reuven could still be considered a damager who one may harm to save himself, which is why it is permitted to speak *Lashon Hara* about him.

Finally, it is well-known that the Chofetz Chaim writes that it is permitted to relate negative information about a person to a potential business partner or prospective spouse if that information is very relevant to the partnership or *shidduch*. One might ask why this is permitted if the one being spoken about did nothing wrong and is not a "damager"?

There are two answers given to this question. The first answer is that the individual who is being spoken about did, in fact, do something wrong. If he or she has an imperfection that could affect the partnership or marriage and is withholding that information, they are guilty of "*geneivas daas*", being dishonest. Accordingly, they could be considered a damager and it is permitted to harm them according to the rule of *avad inish dina d'nafshei*.

The other answer is that in this case, the person who steps in and relates the information is not actually causing the one being spoken about a loss. What he is actually doing is preventing them from benefitting from a potential opportunity. He is not taking anything away from them that they already have; rather, he is stopping them from the opportunity to gain by entering into a partnership or *shidduch*. It is debatable whether this type of case falls under the category of *Lashon Hara* that is *bein odom l'makom* or *bein odom l'chaveiro*. If it would be in the category of *bein odom l'makom*, we would understand why it is permitted as long as there is some benefit and it is not gossip.

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