

S E C O N D A N N U A L

COLLEGIATE  
MOOT BEIT DIN  
SOURCEBOOK  
MARCH 1-3, 2019

AT PRINCETON UNIVERSITY



COLLEGIATE MOOT BEIT DIN



MAIMONIDES FUND



Pardes | פּרְדֵּס  
Institute of Jewish Studies



## What is the Collegiate Moot Beit Din?

The Collegiate Moot Beit Din is the first intercollegiate moot court competition that bolsters learning by challenging students to grapple with contemporary ethical dilemmas through the prism of Jewish law.

## What is a Beit Din?

A *beit din* is a Jewish court of law that is used in communities for a variety of purposes. They supervise conversions, validate and nullify marriages, and settle disputes amongst Jewish citizens. Different Jewish communities and denominations will have their own *beit din*, and larger communities may have several *batei din* (courts of law).

When settling disputes, a *beit din* is normally comprised of three people learned in Jewish law that deliberate upon the merits of both sides of the case. They discuss the case's circumstances, which points of law apply, and determine if further information is needed. After debating which side has the stronger case, a verdict is reached based on the majority opinion.

In the Collegiate Moot Beit Din, your team represents a *beit din*. You need to study the Jewish law based on the sources provided, discuss the merits of each side, and reach a verdict. Just as in a real *beit din* you may not all agree, so the final verdict may not be unanimous – that is okay! The aim is to study, discuss and defend a decision - there is not one correct answer.

## Beit Din Considerations

In this competition, you will be the *beit din*, deciding on the case in front of you. Like a real *beit din* you need to consider how Jewish law and values inform both sides of the case. Once you understand both sides, you'll need to discuss the particular circumstance as a *beit din* and determine which side has the stronger argument. There are certain guidelines that should be considered when making your decision:

- There is a hierarchy of sources. A Torah based source carries the most authority, whereas latter sources carry less authority. You cannot ignore a Torah source, but you can limit its application, or suggest that it is overruled by a competing Torah value. For example the Torah says not to eat milk and meat together, but this is overruled by another Torah value of saving a Jewish life (*pikuah nefesh*). So if a person's life is in danger and the only solution involves milk and meat, one *must* consume it.
- Later authorities may give more clarity as they explain the application and limitations of the earlier sources. The sources of later authorities help us clarify and apply Torah principles.
- Even though you will bring sources to prove your ruling, it is important to explain why certain sources are not applicable or relevant in your understanding of this case.



## What are Whisper Networks?

A whisper network describes a chain of information privately passed between people, typically a list of powerful people in an industry alleged as being sexual harassers or abusers. The information is often shared between people by word of mouth, online in private communities, in forums, via spreadsheets, and sometimes using crowd-sourced documents. The stated purpose of maintaining these lists is to warn potential victims of “people to avoid” in their industry. Whisper networks also purportedly help victims realize that they are not alone and connect them with other people who were similarly affected so that they can connect with one and other and in certain circumstances come forward together about a serial abuser. The term “whisper network” was newly popularized during the #MeToo movement after several private lists were published, such as: the Sh\*\*ty Media Men list, the California State Capitol list, and the Harvey Weinstein Google doc. Karen Kelsky created a list called “Sexual Harassment In the Academy: A Crowdsourced Survey” which had grown to over 2000 entries by the end of 2017, and includes stories without actually naming the accusing and accused parties. Kelsky said she hoped the list would help demonstrate the scope of sexual misconduct in the academic field, and it has resulted in the investigation of twelve men at the University of Michigan. *Adapted from Wikipedia ([https://en.wikipedia.org/wiki/Whisper\\_network](https://en.wikipedia.org/wiki/Whisper_network))*

## Acknowledgements

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**Chabad.org** for their translations of Rambam’s Mishneh Torah.



## The Case

Sarah, a proud Jewish day school graduate, got a job soon after college working for her synagogue as Director of Social Media and Publications. Having grown up attending the synagogue and its youth activities such as day trips and overnight camps, she was excited to give back to the community that gave so much to her. She was thrilled that her Youth Director from when she was young was promoted to National Director of her youth group. He would stop in regularly to see how things were going and always gave Sarah a warm welcome.

However, things started to get uncomfortable for Sarah when the National Director, also a rabbi, frequently stopped by at the end of the day after the office staff had left, to “catch up” with her. He had been enormously supportive of her candidacy for the job and wrote her a warm letter of recommendation, something he reminded her of every so often. He continued to be helpful, always suggesting resources she could use to boost exposure within various networks and regularly sending her invaluable updates from the national office. He even discussed on several occasions about wanting Sarah to advance and work with him directly in the coveted national position.

But she found herself uneasy about being alone in the building with him, especially since the conversation always became personal. He was very interested in her personal relationships and dating behavior. In their last conversation, he asked her, almost too casually, if she was using protection when she “slept around.” She became flustered and responded that she does not sleep around and that she is in a committed relationship with one person.

Was that normal for a rabbi to be asking such questions? She began asking friends from the youth group if they had ever felt uncomfortable, but she was met with mostly blank stares or even unequivocal rejections of what she was trying to insinuate. She became less sure of herself. Nonetheless, within the same time period, she began to hear of other directors and rabbis scattered across the world who exhibited similarly inappropriate behavior. The overall feeling was that there was nothing to do about it.

Because of her daily interaction with social media, she came across Sh\*\*ty Media Men the day that it hit the web. Although it was fairly short-lived (given the volatile nature of the document), it gave her pause. She had previously heard about whisper networks - the unofficial information channels used to warn people about individuals whose behavior falls on the spectrum from creepy to criminal - and she wondered if there was something similar for men and women working in the Jewish sector.

One afternoon, she ran into her friend, Cassidy, who was working in the national office. Sarah hesitantly asked her if the rabbi had ever made her feel uncomfortable. She paused and then said that she had never personally experienced anything uncomfortable but that she had heard about a young intern who left the office after leveling what was deemed unfounded accusations against the National Director. The entire incident was kept very quiet but it had left Cassidy feeling unsettled and led her to avoid any direct interaction with the Rabbi thereafter, even though it limited her professional advancement. He was a very powerful figure in the movement. It was known that his favorites moved on to become important leaders.

Sarah felt she could not keep quiet. She decided to make a list on Google Docs of the people in the local Jewish community who were known to make persistent and unwanted advances towards other members of the community, predominantly women. She kept it very quiet, sharing it only with the people she trusted. Individuals who gained access to



the Google Doc were able to view and add names as well as details of any person who made repeated unwanted advances towards them. It was a closed list of only twenty trusted friends and it had eight names on it. She was cautious about sharing it with people outside of her own group of colleagues, but she recognized that the list had value and could spread awareness and caution to others. Ideally, she wanted her close colleagues to share access to the whisper network with their close network of people.

At a coffee meeting with her good friends, Rivkah and Dave, she confided in them about the list and her plans to make it more widely available. Rachel sympathized with her considering the difficult experience she had with the Rabbi, but she thought that the list, if it went unchecked, would cause more harm than good. She described it as cyber-vigilantism where anyone could place a name on the list and tarnish that person's reputation for good. Dave disagreed and said that the benefits of such a list would far outweigh any negatives. He believed that people have the right to protect themselves against inappropriate behavior and that this would be a discreet way of ensuring it happens.

However, Rivkah was not convinced. She felt that if any person behaves improperly that it should be reported and followed up with the appropriate, official authorities. She suspected that the Torah's principle of *lashon hara* (*evil speech*) - *Do not go about as a talebearer among your people* (Lev. 19:15) would apply in this circumstance since people would be reporting perceived indiscretions that could have drastic effects on the named individuals. Dave disagreed and felt that if the list were kept discreet then it could be an effective way to protect vulnerable people in society. He felt that men and women who are targeted by more powerful employers or colleagues often have nowhere to go and that there is a *mitzvah* (commandment) to protect someone from potential harm. He also explained that it is not always so simple to go to an institution's board or to the police because the incidents are often he said-she said; there is a fear that nothing will happen; and the person who makes the report is often labeled a troublemaker and may face repercussions. The whisper network, he felt, avoids these issues and attempts to stop things from happening in the future.

Sarah came away from her discussion with more questions than when she came in. She decided to take the case to the *beit din* (Jewish court of law) of the city to weigh in on whether whisper networks, in their current form, conform to Jewish law in the following areas:

- a. The *mitzvah* to rebuke someone who is transgressing Jewish law (*tochecha*)
- b. The *mitzvah* of not standing idly by while your brother's blood is being shed (*lo ta'amod al dam r'eacha*)
- c. The *mitzvah* of not gossiping (*rechilus*) or speaking evil speech (*lashon hara*)
- d. The *mitzvah* of not humiliating someone publicly (*halbanat panim*)

1. Can any of these concepts prevent or support Sarah's construction of her whisper network?
2. How does Jewish law guide us in determining whether these whisper networks should continue to function in their current form, be revised in certain ways, or be substituted by an alternative mechanism?



## Format

Teams are comprised of a maximum of four students.

Presentations will take place on **March 3rd, 2019**.

There is NO written decision component at the Collegiate Moot Beit Din (CMBD).

CMBD 2019 will be offering three divisions: *Kagan*, *Sotomayor* and *Ginsburg*.

Teams in the *Kagan* division will form their case argument using the sources provided.

Teams in the *Sotomayor* and *Ginsburg* divisions will use both the provided sources as well as additional sources in order to form their case argument.

Teams in the *Sotomayor* and *Ginsburg* divisions must submit all outside sources by completing the CMBD 2019 Additional Sources form on February, 24th at 11:59 PM. The link will be distributed in February.

Each team will be allotted eight minutes for their presentation, followed by a Q&A with judge panel, and a question from each opposing team. Teams will have access to a projector and internet.

The judge panel will evaluate the presentations based upon the following criteria: Knowledge and Understanding of Topic, Organization and Clarity, Strength of Argument, Use of Sources and Examples, Responses to Questions, Enthusiasm in Conveyance of Oral Presentation, Originality and Creativity, and Relevance and Strength of Additional Sources (just for teams in the *Sotomayor* and *Ginsburg* divisions).

Schools sending two teams are permitted to study the case and sources together. However, under no circumstance are the two teams permitted to work together on preparing their oral argument and presentation.

Please direct any inquiries regarding the facts of the case to Abraham Wasserstein ([abe@cmbd.info](mailto:abe@cmbd.info)).  
All clarifications will be posted in the CMBD 2019 Facebook group.



## Relevant Jewish Values

This sourcebook is broken into three sections, each one bringing relevant sources.

### Section A

- **To rebuke** (*tochecha*) – The Torah says you must rebuke your fellow, although no guidelines are given. The Talmud will limit the ability to rebuke based on the prohibition of humiliating someone in public (*halbanat panim*).
- **To not shame or publically humiliate** (*halbanat panim* - literally, whitening of the face). It is regarded as a severe prohibition even though there is no clear Biblical source for it.

### Section B

- **To not tale-bear/gossip** (*rechilus*) – One who tells tales or spreads information even if is true and causes no denigration. Based on a verse in the Torah.
- **To not utter evil speech** (*lashon hara*) – The origin of this prohibition is unclear but it is tied to a verse that suggests that it is prohibited to carry gossip within the nation. *Lashon hara* refers to gossip and tale-bearing which may or may not be true and harms a person.

### Section C

- **‘You shall not stand idly by your neighbor’s blood’** (*lo ta’amod al dam r’eacha*). A Torah prohibition whose implications are broadened by Rabbinic tradition. It could apply to the victim or the perpetrator.



## Section A

### To rebuke (*tochecha*) and to not shame or publically humiliate (*halbanat panim*)



The Torah is composed of five books (Genesis, Exodus, Leviticus, Numbers and Deuteronomy) and is the core text of the Jewish religion.

#### Text 1

##### Leviticus 19:17

You shall not hate your fellow in your heart. You shall surely rebuke your fellow and incur no guilt because of him.

##### ויקרא פרק יט:יז

לֹא-תִשְׂנֵא אֶת-אָחִיךָ בְּלִבְךָ הוֹכֵחַ תּוֹכִיחַ אֶת-  
עֲמִיתֶךָ וְלֹא-תִשָּׂא עָלָיו חֲטָא:



Rashi (1040–1105, Troyes, France) is an acronym for Rabbi Shlomo Yitzhaki, famous Bible and Talmud commentator

#### Text 2

##### Rashi on Leviticus 19:17

“And incur no guilt because of him” - Do not whiten his face [humiliate him] in public.

##### רש"י ויקרא פרק יט:יז

(יז) ולא תשא עליו חטא - לא תלבין את פניו  
ברבים:



The Babylonian Talmud was compiled around the 5th Century during the Jewish exile in Babylonia. It's a core part of the oral tradition containing Jewish laws, debates and stories.

#### Text 3

##### Babylonian Talmud Arakhin 16b

How do we know that if a man sees something unseemly in his neighbor, he is obliged to reprove him? Because it states [in the Torah, Lev 19:17]: *You shall surely rebuke.*

If he rebuked him and [the neighbor] did not accept it, how do we know that he must rebuke him again? The Torah states: [you shall] ‘surely rebuke’ multiple times. One might assume [this to be obligatory] even though his face whitened [he was humiliated from the rebuking], therefore the text states: ‘You shall not bear sin because of him’ [to limit it up to the point of humiliation in public].

...How far shall rebuke be administered? Rav said: Until he [the reprover] be beaten. Samuel said: Until he be cursed. Rabbi Yochanan said: Until he be shunned.

##### תלמוד בבלי ערכין טז:

מנין לרואה בחבירו דבר מגונה  
שחייב להוכיחו? שנאמר: הוכח  
תוכיח, הוכיחו ולא קבל מנין  
שיחזור ויוכיחנו? תלמוד לומר:  
תוכיח, מכל מקום; יכול אפי'  
משתנים פניו? ת"ל: לא תשא עליו  
חטא.... עד היכן תוכחה?  
רב אמר: עד הכאה, ושמואל אמר:  
עד קללה, ורבי יוחנן אמר: עד  
נזיפה.





**Text 4**

**Babylonian Talmud Bava Metzia 58b – 59a**

A sage from the tannaatic period [approx. 0–200 CE] taught a baraita [statement] before Rav Nahman bar Yitzhak: Anyone who humiliates another in public, it is as though he were spilling blood. Rav Nahman bar Yitzhak said to him: You have spoken well, as we see that after the humiliated person blushes, the red leaves his face and pallor comes in its place, which is tantamount to spilling his blood.

It is preferable for a person to engage in intercourse with a married woman [whose status is] uncertain and not humiliate another in public.

...And I say to them: One who engages in intercourse with a married woman, his death is by strangulation, but he [still] has a share in the World-to-Come. But one who humiliates another in public has no share in the World-to-Come.

And Mar Zutra bar Toviyya says [that] Rav says; and some say Rav hana bar Bizna says that Rabbi Shimon hasida says; and some say Rabbi Yohanan says in the name of Rabbi Shimon ben Yohai: It is more comfortable for a person to cast himself into a fiery furnace rather than humiliate another in public.

**תלמוד בבלי בבא מציעא  
נח: – נט.**

תני תנא קמיה דרב נחמן בר יצחק כל המלבין פני חבירו ברבים כאילו שופך דמים אי"ל שפיר קא אמרת דחזינא ליה דאזיל סומקא ואתי חוורא אמר ... נוח לו לאדם שיבא על ספק אשת איש ואל ילבין פני חבירו ברבים ... ואני אומר להם מיתתו בחנק ויש לו חלק לעוה"ב אבל המלבין את פני חבירו ברבים אין לו חלק לעוה"ב (ואמר) מר זוטרא בר טוביה אמר רב ואמרי לה אמר רב חנא בר ביזנא אמר ר"ש חסידא ואמרי לה א"ר יוחנן משום רשב"י נוח לו לאדם שיפיל עצמו לכבשן האש ואל ילבין פני חבירו ברבים ...

**Text 5**

**Babylonian Talmud Shabbat 54b**

Rav, and Rabbi Hanina, and Rabbi Yohanan, and Rav Haviva taught: Anyone who had the capability to protest the sinful conduct of the members of his household and did not protest, [he himself is] apprehended [for the sins] of the members of his household [and punished].

[If he is in a position to protest the sinful conduct of] the people of his town, [and he fails to do so], he is apprehended [for the sins] of the people of his town.

[If he is in a position to protest the sinful conduct of] the whole world, and he fails to do so, he is apprehended [for the sins of] the whole world.

**תלמוד בבלי שבת נד:**

רב ורבי חנינא ורי יוחנן ורב חביבא מתנו בכליה דסדר מועד כל כי האי זוגא חלופי רבי יוחנן ומעיל רבי יונתן כל מי שאפשר למחות לאנשי ביתו ולא מיחה נתפס על אנשי ביתו באנשי עירו נתפס על אנשי עירו בכל העולם כולו נתפס על כל העולם כולו



Rambam is an acronym for Rabbi Moses Ben Maimon (also known as Maimonides), 1135–1204, Spain and Egypt, physician, philosopher, Talmudist and codifier of Jewish law. His most famous works are the Mishneh Torah which is a comprehensive codification of all Jewish law from the Talmud, and the Guide to the Perplexed, an important work of Jewish philosophy.



**Text 6**

**Rambam, Mishneh Torah, Laws of Knowledge 6:7-8**

7. He who beholds his fellow stooping to sin or following an unrighteous path, is obliged to return him toward the good, and to let him know that he is actually sinning against himself in pursuing wicked deeds for, it is said: "And you shall surely rebuke your neighbor" (Lev. 19:17). He who rebukes his fellow, whether it be regarding a sin committed between man and man, or whether it be regarding matters between man and God, it is essential that the rebuke be administered only between them both; and he shall speak to him calmly, employing soft language, telling him that he does not speak of it to him, save for his own good, to bring him to a life in the world to come. If he receive it attentively from him, it is well; if not, he should rebuke him a second, even a third time. So is the constant duty of a man to continue to rebuke his fellow, even until the sinner strike him, and say unto him: "I will not listen." He in whose power it is to prevent sin and does not take the means to prevent it, he himself is ultimately overtaken by their sin, since it was possible for him to prevent them.

8. He who rebukes a friend, at the beginning, no hard words should be used against him to shame him, for it is said: "And you shall bear no sin upon him" (Lev. 19:17). Thus did the sages say: "Understand it not by rebuking him thou mayest cause his countenance to change expression; for, it is said: 'And thou shalt bear no sin upon him'" (Ibid.; Babylonian Talmud Arakin, 16b); from here we learn that it is forbidden to put an Israelite to shame, needless to say publicly.

Although he who does put his fellow to shame is not flogged, it is a grievous sin. Even so did the wise men say: "He who publicly puts his fellow's countenance to shame has no share in the world to come" (Pirke Avot, 3:15).

A man is, therefore obliged to guard himself against putting his fellow to shame publicly, regardless of whether he be young or old; not to call him by a name of which he feels ashamed, nor tell anything in his presence of which he is ashamed.

However, all these refer to matters touching the relationship between man and man; but if it concern heavenly matters, if the sinner does not repent after being rebuked privately, he should be shamed publicly, and his sin should be proclaimed, and harsh words should be used in his presence, and he should be shamed and cursed till he repent and take up the good path, even as all of the prophets in Israel did with the wicked.

**רמב"ם משנה תורה הלכות דעות  
ז:י-ז:ח**

ז. הרואה חברו שחטא או שהלך בדרך לא טובה מצוה להחזירו למוטב ולהודיעו שהוא חוטא על עצמו במעשיו הרעים שנאמר (ויקרא יט יז) "הוכח תוכיח את עמיתך". המוכיח את חברו. בין בדברים שבינו לבינו. בין בדברים שבין לבין המקום. צריך להוכיחו בינו לבין עצמו. וידבר לו בנחת ובלשון רכה ויודיעו שאינו אומר לו אלא לטובתו להביאו לחיי העולם הבא. אם קבל ממנו מוטב ואם לאו יוכיחנו פעם שנייה ושלישית. וכן תמיד חייב אדם להוכיחו עד שיכהה החוטא ויאמר לו איני שומע. וכל שאפשר בידו למחות ואינו מוחה הוא נתפש בעון אלו כיון שאפשר לו למחות בהם:

ח. המוכיח את חברו תחלה לא ידבר לו קשות עד שיכלימו שנאמר (ויקרא יט יז) "ולא תשא עליו חטא". כך אמרו חכמים יכול אתה מוכיחו ופניו משתנות תלמוד לומר ולא תשא עליו חטא. מכאן שאסור לאדם להכלים את ישראל וכל שכן ברבים. אף על פי שהמכלים את חברו אינו לוקה עליו עון גדול הוא. כך אמרו חכמים (גמרא סנהדרין קז א) "המלבין פני חברו ברבים אין לו חלק לעולם הבא". לפיכך צריך אדם להזהר שלא לביש חברו ברבים בין קטן בין גדול. ולא יקרא לו בשם שהוא בוש ממנו. ולא יספר לפניו דבר שהוא בוש ממנו. במה דברים אמורים בדברים שבין אדם לחברו. אבל בדברי שמים אם לא חזר בו בסתר מכלימין אותו ברבים ומפרסמים חטאו ומחרפים אותו בפניו ומבזין ומקללין אותו עד שיחזר למוטב כמו שעשו כל הנביאים בישראל:



The Sefer Hachinuch was written at the end of the 13th century in Spain. The author is unknown although it is attributed to Rabbi Aharon Halevi. The Sefer Hachinuch gives the author's erudite explanations for all the 613 commandments in the Torah.

## Text 7

### Sefer Hachinuch, Mitzvah 239

The commandment of rebuke to an Israelite who does not behave properly: To rebuke an Israelite who does not behave properly - whether about things that are between a man and his fellow or between a man and the Omnipresent - as it is stated (Leviticus 19:17), "you shall surely rebuke your compatriot, and you shall not bear a sin for him." And they said in Sifra, Kedoshim 4:8, "From where [do we know] that if you rebuked him four or five times and he did not return, that you are obligated to go back and rebuke [him again]? [Hence] we learn to say, 'you shall surely rebuke.'" And they, may their memory be blessed, also said in the Talmud (Bava Metzia 31a), "'You shall surely rebuke' - even a hundred times." And they said in the Sifra, "Perhaps, he should rebuke and his face change [color]? [Hence] we learn to say, 'and you shall not bear a sin for him.'" And this teaches that at the beginning of the rebuke it is fitting for a person to rebuke privately, with soft expressions and calm words, so that he not be embarrassed.

But there is no doubt that if he does not return with this, that we shame the sinner in public and publicize his sin and insult him, until he returns to the better....

From the laws of the commandment is that which they, may their memory be blessed, said (Babylonian Talmud Arakin 16b) that the obligation of this commandment is until hitting - meaning to say that the one rebuking is obligated to multiply his rebukes upon the sinner until it is enough that the sinner is close to hitting the one rebuking. And nonetheless they, may their memory be blessed, also said Babylonian Talmud Arakin 16b) that if the one rebuking sees that there is no benefit at all found from the words of his rebukes - from the greatness of the sinner's evil, or that he is deaf [to it] and extremely evil and [the rebuker] is afraid of him that he not stand against him and kill him - that he is not obligated in this commandment with this man.

And this is what they, may their memory be blessed, said (Babylonian Talmud Yevamot 65b), "In the same way as it is a

### ספר החינוך רל"ט

מצות תוכחה לישראל שאינו נוהג כשורה peace שאינו מתנהג כשורה, בין בדברים שבין אדם לחברו או בין אדם למקום, שנאמר (ויקרא יט יז) הוכח תוכיח את עמיתך ולא תשא עליו חטא. ואמרו בספרא (קדושים ד ח) מנין אם הוכחתו ארבעה וחמשה פעמים ולא חזר, שאתה חייב לחזר ולהוכיח? תלמוד לומר הוכח תוכיח. ועוד אמרו זכרונם לברכה בגמרא (ב"מ לא א) הוכח תוכיח אפילו מאה פעמים. ואמרו שם בספרא יכול מוכיחו ופניו משתנות? תלמוד לומר ולא תשא עליו חטא. וזה מלמד שבתחלת התוכחה שראוי לאדם, להוכיח בסתר ובלשון רכה ודברי נחת, כדי שלא יתביש, ואין ספק שאם לא חזר בו בכך, שמכלימין החוטא ברבים ומפרסמין חטאו ומחרפין אותו עד שיחזר למוטב. מדיני המצוה. מה שאמרו זכרונם לברכה (ערכין טז ב) שחיוב מצוה זו עד הכאה, כלומר שחייב המוכיח להרבות תוכחותיו אל החוטא עד כדי שיהיה קרוב החוטא להכות את המוכיח. ומכל מקום, אמרו זכרונם לברכה (שם) גם כן, שאם יראה המוכיח שאין בדברי תוכחותיו שום תועלת נמצא, מתוך גדל רשע החוטא, או שהוא אלם ורשע ביותר ומתירא ממנו שלא יעמד עליו ויהרגו שאינו חייב במצוה זו באיש כזה, וזהו אמרם זכרונם לברכה (יבמות סה ב) כשם שמצוה לומר דבר הנשמע, כך מצוה לשתק במקום שאין הדבר נשמע, לפי שיהיה בענין קלון למוכיח ולא תועלת לאשר הוכח. ומכל מקום יש להתישב לכל בעל נפש

commandment to say something that will be heard, so [too,] is it a commandment to be quiet in a place where the thing will not be heard” - since there would be disgrace in the matter for the one who is rebuking and no benefit to the one who is rebuked. And nonetheless, it is for every careful person to consider and to pay great attention to these matters and to think and see if there will be a benefit to the sinner with his words, such that he should rebuke him and trust in God, may He be blessed - as He will help him in his fight with His enemies. And let his heart not be soft and let him not fear, since ‘the Lord protects all those that love Him and He obliterates all of the evildoers.’ And if the sinner returns, he will have great reward for this. But the one who has in his hand [the possibility of] bringing him back and rebuking him, and does not rebuke him, is caught in his sin. And this is something clear from the words of our Rabbis (Babylonian Talmud Shabbat 55a) and also from Scripture (Isaiah 3:14). And they, may their memory be blessed, also said (Babylonian Talmud Yevamot 65b) that even a minor is obligated to rebuke an adult if he sees the adult going in a path that is not good. [These] and the rest of the details of the commandment are elucidated in scattered [places] in the Talmud.

ולהשגיח הרבה בעינינים אלה, ולחשב ולראות אם יהיה תועלת בדבריו אל החוטא, שיוכיחנו ויבטח בשם יתברך, כי הוא יעזרנו בהלחמו עם שונאיו, ואל ירך לבבו ולא יירא, כי השם שומר את כל אוהביו ואת כל הרשעים ישמיד, ואם ישוב החוטא יהיה לו בזה שכר גדול, ומי שבידו להשיבו ולמחות בו ולא מחה הוא נתפש על חטאו, וזה דבר ברור מדברי רבותינו (שבת נה א), גם מן הכתוב (ישעיהו ג יד). ועוד אמרו זכרונם לברכה (שם) שאפילו הקטן חייב להוכיח הגדול אם יראה הגדול הולך בדרך לא טוב. ויתר פרטי מצוה זו, נתבאר במקומות מפזרים בתלמוד [הלי דעות פ"ו].

## Text 8

### Sefer Hachinuch Mitzvah 240

*To not whiten the face of an Israelite:* To not embarrass an Israelite; and our Rabbis, may their memory be blessed, called this sin (Pirkei Avot/Ethics of the Fathers 3:15), “whitening the face of his fellow in public. And the negative commandment that comes about this [in the Torah] is that which is written (Lev. 19:17), “you shall surely rebuke your compatriot, and you shall not bear a sin for him.” And they said in Sifra, Kedoshim 4:8, “From where [do we know] that if you rebuked him four or five times [...] go back and rebuke [him again]? [Hence] we learn to say, ‘you shall surely rebuke.’”

Perhaps, he should rebuke until his face change [color]? [Hence] we learn to say, ‘and you shall not bear a sin for him.’” [meaning up to disgracing him publicly]

The root of the commandment is well-known - since embarrassment is very painful for the creatures - there is nothing greater than it. Therefore God prevented us from causing so much pain to His creatures, since it is possible to rebuke them in private and not to embarrass the sinner so much.

From the laws of the commandment is that which they, may their

### ספר החינוך מצוה ר"מ

שלא להלבין פני אדם מישראל - שלא לביש אחד מישראל, וזה העון יקראו רבותינו זכרונם לברכה (אבות ג טו) מלבין פני חברו ברבים. והלאו הבא על זה הוא מה שכתוב (ויקרא יט יז) הוכח תוכיח את עמיתך ולא תשא עליו חטא. ואמרו בספרא (קדשים ד ח) מנין שאם הוכחתו אפילו ארבעה או חמשה פעמים חזר והוכח שנאמר הוכח תוכיח. יכול אפילו פניו משתנות? תלמוד לומר ולא תשא עליו חטא.

שרש המצוה ידוע, לפי שהבשת צער גדול לבריות אין גדול ממנו, ועל כן מנענו האל מלצער בריותיו כל כך, כי אפשר להוכיחם ביחוד ולא יתביש החוטא כל כך.

מדיני המצוה. מה שאמרו זכרונם לברכה

memory be blessed, said (Babylonian Talmud Yoma 86b) that we were not warned like this about all things, but rather [only] about things between a man and his fellow. But with Heavenly matters - if he does not return after the private rebuke - it is a commandment to shame him publicly, to publicize his sin and to disgrace and curse him until he returns to the good, as the prophets did to Israel.

(יומא פו ב), שלא בכל הדברים הזהרנו בכך, אלא בדברים שבין אדם לחברו, אבל בדברי שמים אם לא חזר מן התוכחה שבסתר מצוה להכלימו ברבים ולפרסם חטאו ולבזותו ולקללו עד שיחזר למוטב, כדרך שעשו הנביאים לישראל.



The Minchat Chinuch (Rav Yosef Babad, 1800–1870 Ternopil) is a commentary on the Sefer Hachinuch. The source citation is italicized and the commentary by Rav Babad follows.

## Text 9

### Minchat Chinuch 240

*Not to embarrass etc. it is permitted to disgrace him etc.*

When the Author [of the Sefer HaChinuch] wrote that it is permitted to disgrace him, really he means one is obligated to disgrace him and so it seems from the words of the Rambam there.

And it seems to me that when the Rambam and the Author differentiate between laws affecting man and his fellow man and laws between man and God, and in the latter situation we disgrace the sinner publicly, this is specifically when the sinner harms his friend and his friend should not embarrass him publicly since it is preferable that he forgive him for the sin...but if a person sees his friend sinning towards many other people, it seems as if he would be permitted to disgrace him if he does not repent because the prophets too publicly rebuked the people for sins between mankind...and it seems to be that if one sins towards God it is not clear that there is permission to publicly disgrace him...

### מנחת חינוך מצוה ר"מ

(א) שלא לבייש כו, מותר להכלימו כו'. כ"ה דעת הר"מ ובלח"מ מקשה ע"ז ומ"ש הרב המחבר מותר להכלימו הוא ל"ד אלא חייב להכלימו וכן נראה מדברי הר"מ שם. ונ"ל דמה שחילק הר"מ והרב המחבר בדברים שבין אדם לחבירו דאסור להכלימו ובין דברים שבין אדם למקום ב"ה דמכלימין היינו דוקא אם איש חוטא לחבירו אין לחבירו לביישו דמוטב שימחול על החטא כמבואר שם בד' הר"מ [אבל] אם אדם רואה שחבירו חוטא לאנשים אחרים נראה דמותר ג"כ להכלימו אם אינו חוזר כי הנביאים ע"ה הוכיחו בפרהסי" גם על עבירות שב"א לחבירו וספרי הנביאים מלאים מזה אלא הבע"ד בעצמו אסור להכלימו.



## Section B

### To not tale-bear or gossip (*rechilus*) and no evil speech (*lashon hara*)

#### Text 10

##### Leviticus 19:16

Do not go as a talebearer among your people, do not stand idly by your neighbor's blood, I am God.

##### ויקרא יט:טז

לֹא-תִלְךָ רֵכִיל בְּעַמִּיךָ לֹא תַעֲמֹד עַל-דַּם רֵעֶךָ אֲנִי ה'.



The book of Psalms (Tehillim) is part of the section called Writings (Ketuvim) of the Jewish Bible (Tanach). It contains 150 psalms, poetic in nature, which explore the diversity of human experience.

#### Text 11

##### Psalms 34:13–15

(13) Who is the man who is eager for life, who desires years of good fortune? (14) Guard your tongue from evil, your lips from deceitful speech. (15) Shun evil and do good, seek peace and pursue it.

##### תהילים לד:יג-טו

(יג) מִי־הָאִישׁ הֶחֱפֵץ חַיִּים אֱהִיב יָמִים לְרִאוֹת טוֹב: (יד) נָצַר לְשׁוֹנֵךְ מִרַע וּשְׁפָתֶיךָ מִדַּבֵּר מְרָמָה: (טו) סוּר מִרַע וַעֲשֵׂה־טוֹב בְּקֶשׁ שְׁלוֹם וְרַדְפֵהוּ:

#### Text 12

##### Rambam, Mishneh Torah, Book of Knowledge 7:1–3

1. He who bears tales against his fellow violates a prohibitive commandment, saying: "Do not go as a talebearer among your people" (Lev. 19:16); and although the punishment of flogging is not inflicted for violating this charge, it is a gross iniquity, and is the cause of the slaughtering of many souls in Israel; it is because thereof, that following this commandment is this verse: "do not stand idly by your neighbor's blood" (Ibid).

2. Who is a talebearer? One who loads himself up with matters, and goes from this one to that one, saying to each: such did that man say, thus and such have I heard concerning that man; even though it be true, behold him, he destroys the universe.

There is yet an extremely grosser iniquity, which, too, is included in this prohibitive commandment, and that is, the evil tongue

##### רמב"ם משנה תורה הל' דעות ז:א-ג

א: הַמְרַגֵּל בַּחֲבֵרוֹ עוֹבֵר בְּלֹא תַעֲשֶׂה שְׁנֵאָמַר (ויקרא יט טז) "לֹא תִלְךָ רֵכִיל בְּעַמִּיךָ". וְאֵף עַל פִּי שְׂאִין לֹקִין עַל דְּבַר זֶה עוֹן גְּדוֹל הוּא וְגוֹרָם לְהַרְגַּנָּה נְפֹשׁוֹת רַבּוֹת מִיִּשְׂרָאֵל. לְכָךְ נִסְמָךְ לוֹ (ויקרא יט טז) "וְלֹא תַעֲמֹד עַל דַּם רֵעֶךָ". צֵא וְלִמַּד מֶה אֵרַע לְדוֹאֵג הָאֲדָמִי:

ב: אִי זֶהוּ רֵכִיל. זֶה שְׁטוּעֵן דְּבָרִים וְהוֹלֵךְ מִזֶּה לְזֶה וְאוֹמֵר כִּן אָמַר פְּלוֹנִי כִּן וְכֵן שְׁמַעְתִּי עַל פְּלוֹנִי. אֵף עַל פִּי שֶׁהוּא אֵמֶת הִרִי זֶה מַחְרִיב אֶת הָעוֹלָם. יֵשׁ עוֹן גְּדוֹל מִזֶּה עַד מְאֹד וְהוּא בְּכֻלּוֹ לֹא זֶה וְהוּא לְשׁוֹן הָרַע.



(*lashon hara*), one who spreads scandal about his fellow even though he be telling truth. If he be lying, he is called a maligner who invents an evil name against his fellow. The owner of an evil tongue, behold him, he sits in company and relates, saying: thus and such did that certain party, thus and such were his parents, and thus and such I did hear about him and of course, he relates scandalous matters. Of him, the verse says: "May the Lord cut off all flattering lips, the tongue that speaketh proud things" (Ps. 12:4).

3. The wise men said: "There are three transgressions which call forth punishment in this world, and disinherit the perpetrator from a share in the World to Come. They are: idolatry, adultery, and bloodshed; but evil speech (*lashon hara*) outweighs them all" (Babylonian Talmud Arakhin 16b). The Sages, moreover, said: "One who speaks *lashon hara* denies God, for it is said: 'Who have said, Our tongues will we make mighty, our lips are with us, who is Lord over us'?" (Ps. 12:5). And, again, the Sages said: "*Lashon hara* kills three persons, the one who speaks it, the one of whom it is spoken, and the one who receives it." In fact, the greatest harm comes to the one who receives the evil report.

וְהוּא הַמְסַפֵּר בְּגִנוּת חֲבֵרוֹ אִף עַל פִּי שְׂאוּמֵר  
אָמַת. אֲבָל הָאוֹמֵר שֶׁקָּרָ נִקְרָא מוֹצִיא שֵׁם רַע  
עַל חֲבֵרוֹ. אֲבָל בְּעַל לְשׁוֹן הָרַע זֶה שְׂיוֹשֵׁב  
וְאוֹמֵר כִּי וְכִי עָשָׂה פְלוֹנִי וְכִי וְכִי הִי  
אֲבוֹתָיו וְכִי וְכִי שְׂמַעְתִּי עָלָיו וְאָמַר דְּבָרִים  
שֶׁל גְּנָאִי. עַל זֶה אָמַר הַכְּתוּב (תְּהִלִּים יב ד)  
"יִכְרַת ה' כָּל שִׁפְתֵי חֲלָקוֹת לְשׁוֹן מְדַבֶּרֶת  
גְּדֹלוֹת":

ג. אָמְרוּ חֲכָמִים שֶׁלֹּשׁ עֲבֵרוֹת נִפְרָעִין מִן  
הָאָדָם בְּעוֹלָם הַזֶּה וְאִין לוֹ חֵלֶק לְעוֹלָם הַבָּא.  
עֲבוֹדַת כּוֹכָבִים וְגִלּוֹי עֲרִיוֹת וְשִׁפְכוּת דָּמִים.  
וְלְשׁוֹן הָרַע כְּנֶגְדָּ כָּלָם. וְעוֹד אָמְרוּ חֲכָמִים כָּל  
הַמְסַפֵּר בְּלְשׁוֹן הָרַע כְּאִלוֹ כּוֹפֵר בְּעֵקֶר.  
שְׂנֵאָמַר(תְּהִלִּים יב ה) "אֲשֶׁר אָמְרוּ לְלִשְׁנֵנוּ  
נִגְבִּיר שְׁפָתֵינוּ אֶתְנוּ מִי אֲדוֹן לָנוּ". וְעוֹד אָמְרוּ  
חֲכָמִים שֶׁלֹּשָׁה לְשׁוֹן הָרַע הוֹרְגָת. הָאוֹמֵר.  
וְהַמְקַבֵּל. וְזֶה שְׂאוּמֵר עָלָיו. וְהַמְקַבֵּל יוֹתֵר  
מִן הָאוֹמֵר:

**Text 13**

**Babylonian Talmud Avodah Zarah 19b**

The Gemara relates that Rabbi Alexandri would proclaim in public, in the manner of a merchant selling wares: Who desires life? Who desires life? Everyone gathered around him to buy from him, saying to him: Give us life! He stated the following verse to them: "Who is the man that desires life, and loves days, that he may see good in them? Keep your tongue from evil, and your lips from speaking guile" (P. 34:13–14). The psalm continues: "Depart from evil, and do good; seek peace and pursue it" (P. 34:15). The Gemara explains: Lest one say: I have kept my tongue from evil and my lips from speaking guile, I will therefore go and indulge in sleep. To counter this possibility, the verse states: "Depart from evil, and do good," i.e., it is not enough to avoid evil, but one must actively do good. And the word good means nothing other than Torah, as it is stated: "For I have given you a good portion; My Torah, do not abandon it" (Prov. 4:2).

**תלמוד בבלי עבודה זרה יט:**

מכריז רבי אלכסנדרי מאן בעי חיי  
מאן בעי חיי כנוף ואתו כולי עלמא  
לגביה אמרי ליה הב לן חיי אמר להו  
(תהלים לד, יג) מי האיש החפץ חיים  
וגוי נצור לשונך מרע וגוי סור מרע  
ועשה טוב וגוי שמא יאמר נצרת  
לשוני מרע ושפתי מדבר מרמה  
אלך ואתגרה בשינה ת"ל סור מרע  
ועשה טוב אין טוב אלא תורה  
שנאמר (משלי ד, ב) כי לקח טוב  
נתתי לכם תורתִי אל תעזבו:



*Hafetz Hayim (Rav Yisrael Meir Kagan 1839-1933). Lived in Radin, Poland. With his works on Lashon Hara, the Hafetz Hayim transformed what was an essentially ethical norm or halakhic imperative into codified law. He expanded the scope and deepened the severity and awareness of laws around speech.*

**Text 14**

**Hafetz Hayim Laws of Lashon Hara 1:10:1-2**

1 If a person saw someone harming his/her friend, whether robbing them, wronging them, or causing them damage, whether the one robbed or damaged knew of it or not — or if the person shamed them or aggrieved them, or wronged them with words — and it became known to them clearly that the person did not return the theft or reimburse them for the damage and did not beseech them to forgive the transgression — even if the person saw this thing alone, they can relate it to others in order to help the one who was wronged and to condemn these evil deeds before people; but they must be sure to fulfill the following seven conditions: 1. that they witness themselves and not hear of it from others, unless it becomes clear to them afterwards that the thing is true. 2. that they take great care not to immediately determine the thing to be theft, or wronging, or damage, and the like, without carefully analyzing whether it actually is theft or damage according to the law. 3. that they reprove the sinner first, gently — perhaps it [the proof] will avail the perpetrator who will thereby rectify his ways. And if the person does not listen to them, then they should apprise the people of this person’s guilt — how the person deliberately harmed another. (And if they know that the reproof will not be accepted — this will be explained below, God willing, in section 7.) 4. that they should not exaggerate the wrong beyond what it is. 5. that they should intend the benefit [of others] and not, God forbid, to benefit themselves from the taint ascribed to the other, and not out of preexisting hatred. 6. if they can bring about the desired benefit itself without recourse to exposing them for their act, then, in all instances, it is forbidden to speak [of what they did]. 7. that they should not cause the one spoken about more damage than they would suffer if the matter were brought to trial in rabbinic court. (The rationale for this is to be found below in the laws of gossip, Principle 9, where it properly belongs.)

**חפץ חיים, שמירת הלשון א:י**

אם אדם אחד ראה אדם, שעשה עוולה לחברו, כגון שגזלו או עשקו או הזיקו, בין אם הנגזל והנזק יודעים מזה או לא. או שביישו, או שצערו והונה אותו בדברים. ונודע לו בברור, שלא השיב לו את הגזלה ולא שלם לו את נזקו ולא בקש פניו להעביר לו על עונו, אפילו ראה דבר זה ביחיד, יכול לספר הדברים לבני אדם כדי לעזור לאשר אשם לו ולגנות המעשים הרעים בפני הבריות, אך יזהר, שלא יחסרו אלו השבעה פרטים, שנבארם בסמוך.

א שיראה זה הדבר בעצמו, ולא על ידי שמיעה מאחרים, אם לא שנתברר לו אחר כה, שהדבר אמת. ב שיזהר מאד, שלא יחליט תקף את הענין בדעתו לגזל ועשק או להזקיק וכיוצא בזה, רק יתבונן היטב את עצם הענין, אם הוא על פי דין בכלל גזל או הזקיק. ג שיוכיח את החוטא מתחלה ובלשון רכה, אולי יוכל להועיל לו, ויטיב על ידי זה את דרכיו, ואם לא ישמע לו, אז יודיע לרבים את אשמת האיש הזה, מה שהזיד על רעהו. (ואם יודע בו, שלא יקבל תוכחתו, יבאר לקמן, אם ירצה ה', בסעיף זי.) ד שלא יגדיל העולה יותר ממה שהיא. ה שיכון לתועלת, וכמו שנבאר לקמן בסעיף די, ולא להנות, חס ושלום, מהפגם ההוא, שהוא נותן בחברו, ולא מצד שגאה, שיש לו עליו מכבד. ו אם הוא יכול לסבב את התועלת הזאת גו פא {עצמה} בעצה אחרת, שלא יצטרך לספר את ענין הלשון הרע עליו, אזי בכל גוני אסור לספר. ז שלא יסובב על ידי הספור הזק להנדון יותר מכפי הדין, שהיה יוצא, אלו הועד עליו באפן זה על דבר זה בבית דין, ובאור דבר זה עין לקמן בהלכות רכילות בכלל ט, כי שם מקומו.





## Text 15

### Hafetz Hayim Laws of Lashon Hara, Part 2 The Prohibition Against Tale Bearing (Rechilut), Principle 9, Section 2

a) He must be careful not to immediately conclude that harm will result, but must reflect carefully from the beginning to see if the result will, indeed, be harmful.

b) He must not exaggerate the matter to be worse than it actually is.

c) His intent must be for benefit only; that is, to remove the harm from the first, and not because he hates the other. (And in this third condition, we shall include yet another matter — that aside from his intending benefit and not being motivated by hatred, he must first reflect as to whether benefit will actually sprout from this — as opposed to what happens very often, that even if he tells him, he will not listen to him, but will enter into partnership with him, and afterwards, when his partner angers him with something, he will tell him: “He was right when he told me not to become your partner,” and the like. For such people, whom he recognizes to possess this evil trait of talebearing, no permission is conceivable, for it makes these blind men stumble in the absolute negative commandment of *rechilut*.)

d) If he can effect this benefit [in some other way] without having to speak badly of the other, he should do so.

e) All this is permitted only if absolute harm will not come to the one spoken of because of what is said about him. That is, they are not permitted to do him any positive harm, but only to deprive him of the good that might have come to him from the partnership. Even though this is bad for him, in any event it is permitted. But if absolute harm comes to him because of what is said about him, it is forbidden to speak about him; for this would require other conditions, as will be explained below, God willing, in sections 5 and 6. And how much more so [is it forbidden] if he sees that his story would cause the subject great harm, more than the law prescribes.

### חפץ חיים, שמירת הלשון חלק שני: הלכות איסורי רכילות, כלל ט, ב

א) ואלו הן: יזהר מאד, שלא יחליט תכף את הענין בדעתו לענין רע, רק יתבונן היטב מתחלה, אם הוא בעצם רע.

ב) שלא יגדיל בספורו את הענין לרע יותר ממה שהוא.

ג) שיכון רק לתועלת, דהינו, לסלק הנזקין מזה, ולא מצד שנאה על השכנגדו.

ד) (ובזה הפרט הגי' נכלל גם כן עוד ענין אחר, שמלבד הכונה, שיכון לתועלת, ולא מצד שנאה, יתבונן מתחלה, אם תבוא מזה תועלת, לאפוקי {הוציא} ממה שמצוי כמה פעמים, שאפלו אם יאמר לו, לא ישמע לו, וישתתף עמו, ואחר כך כשירגיזו חברו באיזה דבר, אומר לו: יפה אמר עליך פלוני, שאין ראוי להשתתף עמך, וכיוצא בזה, לאנשים כאלו שהוא מכירם, שיש להם מדה רעה זו דרכילות, לא יציר שום התר, כי הוא מכשיל את העורים הללו בלא תעשה גמורה דרכילות.)

ד) אם הוא יכול לסבב את התועלת הזו, מבלי שיצטרך לגלות לפניו עניויו לרע, אין לספר עליו. ה) כל זה אינו מתר, רק אם לא יסבב על ידי הספור רעה ממש לנדון, דהינו, שלא ירעו עמו ממש, רק שתוסר ממנו על ידי זה הטובה, שהיה עושה עמו השכנגדו, אף דממילא דבר זה הוא רעה לו, מכל מקום מתר. אבל אם יגיע לו על ידי ספורו רעה ממש, אסור לספר עליו, כי יצטרך לזה עוד פרטים, ויבארו לקמן אם ירצה ה' בסעיף ה' ו'. וכל שכן אם הוא רואה, שיסבב על ידי ספורו לנדון רעה רבה יותר מכפי הדין, דאסור לספר עליו. ועין לקמן בסעיף ה', מה שכתבנו שם.



**Text 16**

**Babylonian Talmud Moed Katan 17a**

There was a certain student about whom there were bad rumors [concerning inappropriate sexual behavior]. Rav Yehuda said: "What should be done? Should he be banned? But the rabbis need him! Should he not be banned? But the name of Heaven is being desecrated!" He said to Rabbah bar bar Hannah: "Have you heard any traditions on this matter?" He replied: "Rabbi Yohanan said the following: 'What is the meaning of the verse, "For the lips of a priest guard knowledge, And men seek rulings from his mouth; For he is a messenger of the Lord of Hosts" (Mal. 2:7)? If the master resembles a messenger of God, seek Torah from his mouth. If not, do not seek Torah from his mouth.'" Rav Yehuda banned him. In the end, Rav Yehuda fell ill, and the sages came to seek his welfare, and [the students] came with them as well. When Rav Yehuda saw him [the banned student], he laughed. [The student] said to him: "Is it not enough that you banned [me], but you are also laughing at me?" He replied: "I am not laughing at you, but rather at the fact that when I go to that world, I am happy that I did not even favor a man like you" but instead I treated you fairly in accordance with the halakha. Rav Yehuda died.

...A wasp came and stung the ostracized scholar on his penis and he died. Because he was a great Torah scholar, they took him into the caves in which the pious are interred in order to bury him there, but the caves did not accept him. A snake stood at the entrance of the caves and did not let them pass. They then took him into the caves of the judges, and they accepted him. The Gemara asks: What is the reason that he was accepted there? The Gemara answers: Even though he sinned, he still acted in accordance with the opinion of Rabbi Ilai, as it is taught in a baraita: Rabbi Ilai says: If a person sees that his evil inclination is gaining control over him and he cannot overcome it, then he should go to a place where he is not known. He should wear black, and he should wrap his head in black, as if he were a mourner. Perhaps these changes will influence him, so that he not sin. Even if these actions do not help, he should at least do as his heart desires in private and not desecrate the name of Heaven in public. Although this person had sinned, he did so in private and in a manner that did not publicly desecrate God's name, and therefore it was fitting that he be given an honorable burial. ... Similarly, it was related that Reish Lakish was guarding an orchard for payment when a certain man came and ate some figs that were growing there. Reish Lakish raised his voice and yelled at him, but this man paid

**תלמוד בבלי מועד קטן יז.**

הוא צורבא מרבנן דהוו סנו שומעניה. אמר רב יהודה: היכי ליעביד? לשמתיה - צריכי ליה רבנן, לא לשמתיה - קא מיתחיל שמא דשמיא. אמר ליה לרבה בר בר חנה: מידי שמיע לך בהא: אמר ליה: הכי אמר רבי יוחנן, מאי דכתיב (מלאכי ב') כי שפתי כהן ישמרו דעת ותורה יבקשו מפיהו כי מלאך ה' צבאות הוא אם דומה הרב למלאך ה' - יבקשו תורה מפיו. ואם לאו - אל יבקשו תורה מפיו. שמתיה רב יהודה. לסוף איחלש רב יהודה, אתו רבנן לשיולי ביה, ואתא איהו נמי בהדייהו. כד חזייה רב יהודה חייך אמר ליה: לא מסתייך דשמתיה לההוא גברא אלא אחוכי נמי חייך בי? אמר ליה: לאו בדידך מחייכנא אלא דכי אזלינא לההוא עלמא בדיחא דעתאי דאפילו לגברא כוותך לא חניפי ליה. נח נפשיה דרב יהודה... אתא זיבורא וטרקיה אאמתיה ושכיב עיילוהו למערתא דחסידי ולא קיבלוהו עיילוהו למערתא דדייני וקיבלוהו מ"ט דעבד כר' אילעאי דתניא ר' אילעאי אומר אם רואה אדם שיצרו מתגבר עליו ילך למקום שאין מכירין אותו וילבש שחורים ויתעטף שחורים ויעשה מה שלבו חפץ ואל יחלל שם שמים בפרהסיא ... ריש לקיש הוה מנטר פרדיסא אתא ההוא גברא וקאכיל תאיני רמא ביה קלא ולא אשגח ביה אמר ליהויה ההוא גברא בשמתא א"ל אדרבה ליהויה ההוא גברא בשמתא אם ממון נתחייבתי לך נידוי מי נתחייבתי לך אתא לבי מדרשא א"ל שלו נידוי שלך אינו נידוי ומאי תקנתיה זיל לגביה דלישרי לך לא ידענא ליה אמרו ליה זיל לגבי נשיאה דלישרי לך דתניא נידוהו ואינו יודע מי נידוהו ילך אצל נשיא

no attention to him and kept eating. Reish Lakish said: Let that man be in a state of excommunication. The man eating the figs said to him: On the contrary, let that man, i.e., Reish Lakish, be in a state of excommunication, for even if I have become liable to you for payment, as I have eaten of the figs without permission, have I become liable to you for excommunication? With that statement, the man left.

Reish Lakish went to the study hall to inquire about the halakha with regard to this man. The other Sages said to him: His decree of ostracism is valid, but your decree of ostracism is not. In other words, that man was correct and Reish Lakish should not have ostracized him in response to his actions.

Reish Lakish then asked: If so, what is the remedy for this decree of ostracism? The Sages answered him: Go to him so that he may release you from it. Reish Lakish replied: I do not know him. They said to him: Go then to the President of the Jewish court, so that he may release you from the ban, as it is taught in a baraita: If one was ostracized, but he does not know who ostracized him, he should go to the President of the Jewish court, and the President of the Jewish court may release him from his decree of ostracism.

The Gemara continues: Rav Huna said that in Usha it was enacted: If the President of the court sinned, he is not ostracized. Although this would be the appropriate punishment, he is not ostracized, so as not to cause a desecration of God's name. Rather, they say to him the words of the verse: "Keep your honor and stay at home" (II Kings 14:10). That is to say, to preserve your dignity, it would be best if you were to stay at home, resign your position, and refrain from further public appearances. If he sins again, he is ostracized, due to the desecration of God's name that would ensue were people to think that he was spared his rightful punishment due to his high position.

The Gemara comments: This opinion disagrees with that of Reish Lakish, for Reish Lakish said: If a Torah scholar sins, he is not ostracized at all in public, as it is stated: "Therefore, shall you fall in the day, and the prophet also shall fall with you in the night" (Hosea 4:5). This is explained to mean: If a prophet or any other important person sins, his offense should be concealed like the night and not punished in public.

ויתיר לו נדויו אמר רב הונא באושא  
התקינו אב בית דין שסרח אין מנדין  
אותו אלא אומר לו (מלכים ב יד, י) הכבד  
ושב בביתך חזר וסרח מנדין אותו מפני  
חילול השם ופליגא דריש לקיש דאמר  
ריש לקיש תלמיד חכם שסרח אין מנדין  
אותו בפרהסיא שנאמר (הושע ד, ה)  
וכשלת היום וכשל גם נביא עמך לילה  
סכה כלילה



Text 17

**Question to Rambam, n. 111**

*(Translation by Rabbi Dr. Daniel Roth)*

We ask the grace of our lord, light of the world, our master and Rabbi Moses ben R. Maimon, what say you - great rabbi, wonder of the generation from sunrise to sunset - of a certain Hazzan, who is also a Talmid [Chacham] [Wise person], regarding whom an unmentionable rumor (*rinun*) has proliferated, but no witnesses have come forth, and he has enemies. Should he be expelled from his position or not? ...

**Responsa of the Rambam n. 111** The answer: What every intellectual should know. (1.) That no official should lose his position because of a mere rumor, even if he has no enemies. And certainly not if there are in the city people who hate him, and have evil intent. Because in matters like these it cannot be said "for it is no good report" (Samuel I, 2:24). That is only if he has no enemies. But, if he has enemies, [we say] it is his enemies who have spread the [adverse rumor]." (Babylonian Talmud Moed Katan 18b)... (2b) And if this rumour has been spread about him, he should not be removed and it should not be publicized. As it has been said: "if a Rabbinic Sage has committed an offensive deed they do not 'ban' him publicly, because it is said: Therefore shalt thou stumble in the day and the prophet also shall stumble with thee in the night (Hoshea 4:5), [that is to say] Keep it dark, like night.... But then, when a Collegiate did incur the ban, how did he act? - As they do [in the West]: for in the West [Palestine] they appoint a tribunal for lashing a Collegiate but do not appoint a tribunal for pronouncing a ban." [Babylonian Talmud Moed Katan 17a]. ... (2d) And do not let the story of Rav Yehudah regarding that collegiate mistake you, because they explained this and said, that he acted in accordance with Rabbi Il'ay, that he went where he is not known; and did the deed that his heart desired, and it was necessary to publicize the matter to them, so that the people would see the matter themselves and not just hear it through a rumour alone. (3a) And the man who spoke of this person without seeing him for himself should be banned, because there is no greater *afkarta* (irreverence) than that. (3b) He should be lashed for spreading libel... and be careful of the honour of Torah, for a mitzva [commandment] is a candle and the Torah, light. And Moses wrote.

**שו"ת הרמב"ם סימן קיא**

שאלה אנו שואלים מחסד אדוננו אור העולם מרינו ורבינו משה בר' מימון ז"ל, מה אומר [מורנו ואדוננו ירום הודו] הרב הגדול מופת הדור ופלאו ממזרח שמש ועד מבואו על איש [מפורסם במשרת] החזנות והוא תלמיד(ח כם) ג"כ. ויצא עליו ריבון שאין ראוי להזכירו, אבל לא קמה בו [עדות] בשני עדים כשרים, ולו אויבים. שו"ת הרמב"ם סימן קיאהתשובה מה שצריך לידע כל משכיל וחכם,

(1.) שאין ראוי להסיר שום בעל משרה ממשרתו בגלל שמועה בלבד, אפילו אין לו אויבים, ומכל שכן אם יש [בזאת] העיר בני אדם השונאים אותו, ובעלי כונות, לפי שבעינינו כגון אלו בהכרח לא נאמר לא טובה השמועה לאומרם בכגון זה הני מילי היכא דליכא אויבים אבל אי איכא אויבים דמפקי קלא... (2 ב.) ואם יצא עליו זה (הרינון) אין ראוי להסירו ולא לפרסמו, [כמו שאמרן] תלמיד חכם שסרה, אין מנדין אותו בפרהסיא, שני וכשלת היום וכשל [גם] נביא עמך לילה כסהו כלילה. ואלא צורבא מרבנן דמייחייב נידוי היכי [נעביד] כי הא דמערבא מימנו אנגדא דצורבא מרבנן ולא מימנו אשמתא.

(2ד.) ואל יטעה אתכם מעשה דרב יהודה בההוא גברא צורבא [מרבנן], לפי שביארו זאת ואמרו, דעבד כר' אלעאי, שהלך למקום, שאין מכירין [אותו], והיה עושה מה שלבו חפץ. והיה חייב לפרסמו אצלם, להיות האנשים [ראו] מעשיו (ולא) בשמועה לבד. (3א.) והאיש, אשר דבר [בזה] התלמיד (חכם) מבלי שראה בעיניו, חייב נידוי לפי שלא [תתכן] אפקרתא גדולה מזה (3 ב.) ולוקה משום מוציא שם רע, כי [ההוא] מעשה] דטוביא חטא וכי 4. [והזהרו בכבוד התורה, כי נר מצוה ותורה אור וכתב] משה.



**Text 18**

**Rambam, Mishneh Torah, Laws of Sanhedrin 24:5**

Similarly, at any time, and in any place, a court has the license to give a person lashes if he has a reputation for immorality and people gossip about him, saying that he acts licentiously. This applies provided the rumor is heard continuously, as we explained, and he does not have any known enemies who would spread this unfavorable report. Similarly, a person with such an unsavory reputation may be humiliated and scorn may be heaped on his mother in his presence.

**רמב"ם משנה תורה הלכות סנהדרין  
כד:ה**

יִכֵּן יֵשׁ לְבֵית דִּין בְּכֹל מְקוֹם וּבְכֹל זְמַן  
לְהַלְקוֹת אָדָם שֶׁשְּׁמוּעָתוֹ רָעָה וְהָעַם מְרַנְּנִים  
עָלָיו שֶׁהוּא עוֹבֵר עַל הָעֲרִיּוֹת וְהוּא שִׁיחִיָּה  
קוֹל שְׂאִינוֹ פּוֹסֵק כְּמוֹ שֶׁבְּאַרְנוֹ וְלֹא יְהִי אֵלּוּ  
אוֹיְבִים יְדוּעִים שֶׁמוֹצִיאִין עָלָיו שְׁמוּעָה רָעָה.  
יִכֵּן מְבַדִּין אֶת זֶה שֶׁשְּׁמוּעָתוֹ רָעָה וּמְחַרְפִּין  
אֶת יוֹלְדָתוֹ בְּפָנָיו:

**Text 19**

**Deuteronomy 17:12**

12. But the man who acts deliberately to not heed the cohen who stands to serve there [before] God, your Lord, or the judge; that man is to be executed and you will eliminate the evil [doer] from Yisrael. 13. Let all the people hear and fear, and not sin deliberately again.

**דברים פרק יז:יב**

יב וְהָאִישׁ אֲשֶׁר־יַעֲשֶׂה בְּדוֹן לְבַלְתִּי שְׁמַע  
אֶל־הַכֹּהֵן הַעֹמֵד לְשֵׁרֵת שָׁם אֶת־יְקֹוֹק  
אֶל־הָיָה אוֹ אֶל־הַשֹּׁפֵט וּמֵת הָאִישׁ הַהוּא  
וּבַעֲרַת הָרֶעַ מִיִּשְׂרָאֵל:  
יג וְכָל־הָעָם יִשְׁמְעוּ וְיִרְאוּ וְלֹא יַזְדִּיחוּ עוֹד:

**Text 20**

**Babylonian Talmud Sanhedrin 89a**

The Sages taught: There are four [transgressors condemned to be executed whose verdicts] require a proclamation [to inform the public]: one who instigates [others to engage in idol worship], and the stubborn and rebellious son, and the rebellious elder, and conspiring witnesses.

**תלמוד בבלי סנהדרין פט.**

ת"ר ארבעה צריכין הכרזה המסית ובן  
סורר ומורה זקן ממרא ועדים זוממין  
בכולהו כתיב בהו וכל העם וכל ישראל  
בעדים זוממין כתיב והנשארי' דלא כולי  
עלמא חזו לטהדותא:



**Background on Gedaliah** (See Jeremiah 40:19–21) After the destruction of Jerusalem and first Temple, Gedaliah ben Achikam was appointed by Nebuchadnezzar II of Babylon as governor of Israel. A report came to Gedaliah that a soldier called Yishmael had been dispatched to assassinate him. A military commander loyal to Gedaliah requested to go out to meet Yishmael and kill him, but Gedaliah replied: "Do not do such a thing: what you are saying about Yishmael is not true!". Subsequently Yishmael, and the ten men who were with him, murdered Gedaliah and the Jews who were with him.



## Text 21

### Babylonian Talmud Nidda 61a

That was the pit which Yishmael ben Netanyah filled with corpses, as it is written [Jeremiah 41:9] *The cistern into which Yishmael threw all the corpses of the men killed by the hand of Gedaliah...* but did then Gedaliah kill them? Why, Yishmael killed them! Rather since he [Gedaliah] should have heeded the advice of Yochanan ben Karepach and he did not heed it, Scripture reckons it as though he had killed them. This *lashon hara*, although one should not accept it, one should be mindful of it.

There were some Galileans about whom a rumor spread that they killed a person. They came before Rabbi Tarfon and said to him, "The master should hide us." He said to them, "What should I do? If I do not hide you, the authorities will see you and execute you. On the other hand, why should I hide you (because there is a rumour that you murdered someone)? After all the Rabbis said, this is a type of *lashon hara* and although one should not accept it as truth, one should be mindful of it. Go and hide yourselves" (in other words, escape but without Rabbi Tarfon's help).

### תלמוד בבלי נדה סא.

תנא: הוא הבור שמילא ישמעאל בן נתניה חללים, דכתיב והבור אשר השליך שם ישמעאל את כל פגרי אנשים אשר הכה ביד גדליה. וכי גדליה הרגן? והלא ישמעאל הרגן! אלא מתוך שהיה לו לחוש לעצת יוחנן בן קרח ולא חש - מעלה עליו הכתוב כאילו הרגן. אמר רבא: האי לישנא בישא, אף על פי דלקבולי לא מבעי - מיחש ליה מבעי. הנהו בני גלילא דנפק עלייהו קלא דקטול נפשא, אתו לקמיה דרבי טרפון, אמרו ליה: לטמרינן מר! אמר להו: היכי נעביד? אי לא אטמרינכו - חזו יתייכו, אטמרינכו - הא אמור רבנן האי לישנא בישא, אף על גב דלקבולי לא מבעי - מיחש ליה מבעי, זילו אתון טמרו נפשייכו.



Tosafot Rosh (by Asher Ben Yehiel, 1250 to 1327, born in Germany and died in Spain) is an important commentary on the Talmud. He is also known as the Rosh.

## Text 22

### Tosafot Rosh, Nidda 61a, Chapter 9, Section 5

(cited above) (Translated by Nechama Goldman Barash)

Ravina said, this type of *lashon hara*, even though one cannot accept it as truth, one can be mindful of it...and it seems to me to be according to the words of Rabbi Acha Gaon who wrote in the *Sheiltot* [Jewish Law Responsa from the Gaonic period, 7th to 10th century] if you killed someone, you are liable to the [secular] king (the court) who warns against accepting murderers. And in this case, one should pay heed to the *lashon hara*, for he could come to harm or cause others to be harmed if he does not pay heed to the rumours as in this case and as in the case of Gedaliah. But in any other case, it is forbidden to pay attention to *lashon hara* and to believe it at all.

### רא"ש מסכת נדה פרק ט

סימן ה  
ה אמר רבינא האי לישנא בישא אף על גב דלקבולי לא מיבעי למיחש ליה מיבעי... ונראה דברי רבינו אחא שפירש בשאלתות (פי' וישב) אם הרגתם חייבתם ראשי למלך שהתרה מלקבל רוצחין. וכענין זה דוקא יש לחוש לישנא בישא היכא שיכול לבוא לידי היזק לו או לאחרים אם לא יחוש לו כהך עובדא וכההיא דגדליה בן אחיקם. אבל בענין אחר אסור אפילו לחוש ללשון הרע ולהאמינו כלל:



Pitchei Teshuva (by Rabbi Yisrael Isserlin, 1827-1889) is a commentary on the four volumes of the Shulchan Aruch (Code of Jewish Law). It was largely authored by Avraham Tzvi Hirsch Eisenstadt (1813-1868). Only this volume, Orach Chayim was written by Rabbi Isserlin.

## Text 23

### Pitchei Teshuva, Orach Chayim, 156.

*(Translation by Rabbi David Brofsky)*

The Magen Avraham and others went on at length about the stringency around Lashon Hara, and I felt compelled to note, that on the other hand, there is a greater transgression that is also very prevalent, and that it is not to give his friend information when there is a chance to save the oppressed from his oppressor because of the fear of Lashon Hara. For instance, one who sets a trap to kill someone in an undetectable manner or who digs a tunnel in the middle of the night in the darkness into the house or store of his friend and prevents himself from telling his friend and warning him in time, because he is afraid that this is a transgression of Lashon Harah, and in truth, one who behaves this way, his sin is too great to bear and he transgresses the prohibition of Do Not Stand Idly By While Your Brother's Blood is Being Shed. By not speaking you violate the mitzvah of returning that which is lost to its owner (Deut 22:2)...The general principle is that these are matters which depend upon the speaker's motivation. If the informant's intent in relating to these matters is entirely to cause harm, that is lashon ha'ra. However, if his intent is to bring about benefit to the other person and to save him and to protect him – then it is a great mitzvah...unfortunately, I have seen many times where someone witnesses another person trying to cause harm to someone – and he suppresses the information and says "Why should I get involved in a matter which isn't my business...however, one needs to be very careful about these and similar matters. Our Sages have said – when the permissibility depends on motivations – it says, "And you should be afraid of your God."

### פתחי תשובה, אורח חיים, קנ"ו

הנה המגן אברהם וכן בספרי המוסר האריכו בחומר איסור לשון הרע, וראיתו לנכון להעיר לאידך גיסא, שיש עון גדול יותר מזה, וגם הוא מצוי ביותר, וזהו מי שמונע עצמו מלגלות אוזן חברו במקום שיש צורך להציל עשוק מיד עושקו, מפני שחושש לאיסור לשון הרע, כגון הרואה מי שאורב לחבירו להרגו בערמה, או שחותר מחתרת באישון לילה ואפלה בביתו או בחנותו של חברו, ומונע את עצמו מלהודיע לחבירו ולהזהירו בעוד מועד, מפני שחושב שהוא בכלל איסור לשון הרע, ובאמת שהנוהג כן גדול עונו מנשוא, ועובר על לא תעמוד על דם רעך.



Rabbi Moshe Sternbuch (born 1926 in London, lives in Jerusalem) is a major rabbinic figure in the Haredi rabbinic court in Israel that impacts Orthodox Jewry around the world. (Thank you to Rabbi David Brofsky for this source citation)

## Text 24

### Rabbi Moshe Sternbuch, Teshuvot Ve'Hanhagot

We have merited the wonderful book of the Hafetz Haim on the laws of lashon ha'ra..and within the book, the Hafetz Haim it appears that at times there is no prohibition to speak lashon ha'ra, rather there is a mitzvah to speak, such as when one misleads his neighbor in business transactions, or one who borrowed money but did not repay, or regarding marriage arrangements when a match which is not proper is offered and may lead to harm and he refrains from telling his as he does not wish to speak poorly or to cause damage, he violates "that he not stand idly by the blood of your neighbor"..and it turns out that he is using the commandments of our Lord blessed be He, in order to injure his friend when he was never commanded to do so...as well as the commandments of "and you shall love your neighbor as yourself"...and I have warned about this many times and therefore one should be careful to learn the laws of lashon ha-ra well and to know when it is prohibited and when it is permitted as sometimes there is an obligation to tell, under certain conditions, as the Hafetz Haim himself explained.



Rabbi Shlomo Yosef Elyashiv (1910-2012, born in Lithuania, lived in Israel). Head of the Haredi-Lithuanian Communities in Israel and the Diaspora. (Thank you to Rabbi David Brofsky for this source citation)

## Text 25

### Rabbi Shlomo Yosef Elyashiv, Yeshurun 15 (2005)

Thus, all this only permits informing the authorities in a situation in which it is clear that the person did in fact do this deed and in this case there is in fact, an aspect of tikun olam or fixing the world. However, with regard to the question of whether to permit where there is not even "legs" to the matter (i.e. reasonable cause to suspect wrongdoing), but merely some vague suspicion, not only is there no tikun olam [fixing the world], but there is destruction of the world in this case as it is possible that because of some student's grudge against a teacher, a student may accuse the teacher or because of some baseless suspicion, a person could be placed in a situation in which he is better of dead, though he is innocent of wrongdoing and I see no place to permit this.





## Section C

### You shall not stand idly by your neighbor's blood (*lo ta'amod al dam r'eacha*)

#### Text 26

##### Leviticus 19:16

Do not go as a talebearer among your people, do not stand idly by your neighbor's blood, I am God.

##### ויקרא פרק יט: טז

לֹא־תִלְךָ רֵכִיל בְּעַמִּיךָ לֹא תִעַמְדַּם עַל־דַּם רֵעֶךָ אֲנִי ה'

#### Text 27

##### Rambam, Mishneh Torah, Laws of Murder and Preserving Life 1:14–15

14. Anyone who can save and does not save transgresses 'do not stand by the blood of your neighbour'. So too one who sees his friend drowning in the sea, bandits attacking him or a bad animal attacking him and he is able himself to save him or he could hire others to save him but he does not; one who hears idol worshippers or informers plotting harm for him or laying a trap for him and he doesn't tell his friend and inform him; or if he knows that an idol worshipper or a thug are on their way to his friend and he could appease them on behalf of his friend to change their intention and he doesn't appease him; and so too any similar case; One who does any of these transgresses 'do not stand idly by your neighbour's blood'. 15 The one who sees a pursuer going after his friend to kill him or after a woman to rape her and is able to save [the pursued] and does not, this one has cancelled a positive commandment: "and cut off her hand' (Deut. 25:12) and has transgressed two negative commandments: "do not turn away your eyes" (Deut. 25:12) and "do not stand idly by your neighbor's blood" (Lev. 19:16.).

##### משנה תורה הל' רוצח איד-טו

יד כל היכול להציל ולא הציל עובר על (ויקרא יט טז) "לא תעמד על דם רעך". וכן הרוצה את חברו טובע בים. או לסטים באים עליו. או חיה רעה באה עליו. ויכול להצילו הוא בעצמו. או שישכר אחרים להצילו ולא הציל. או ששמע עובדי כוכבים או מוסרים מחשבים עליו רעה או טומנין לו פח ו לא גלה און חברו והודיעו. או שידע בעכו"ם או באונס שהוא בא על חברו ויכול לפי"ס בגלל חברו להסיר מה שבלבו ולא פי"ס. וכל כיוצא בדברים אלו. העושה אותם עובר על לא ת עמד על דם רעך : טו הרוצה רודף אחר חברו להרגו או אחר ערוה לבעלה ויכול להציל ולא הציל. הרי זה בטל מצות עשה שהיא (דברים כה יב) "נקצתה את כפה". ועבר על שני לאוין על (דברים כה יב) "לא תחוס עינך" ועל (ויקרא יט טז) "לא תעמד על דם רעך"



The **Shulchan Aruch** was written by Rabbi Joseph Karo (1488–1575, born in Spain, lived in Safed, Israel). Rabbi Karo transformed the study and observance of Jewish law (*halakha*) by codifying it into four volumes generating dozens of commentary on his code and revolutionizing the way halakha was decided.

## Text 28

### Shulchan Aruch, Choshen Mishpat, 426:1

If one person sees another drowning in the sea or being attacked by bandits, or being attacked by wild animals, and although able to rescue him either alone or by hiring others, does not rescue him; or if one hears a non-Jew or informers plotting evil against another or laying a trap for him and he does not call it to the other's attention and let him know; or if one knows that a non-Jew or a violent person is going to attack another and although able to appease him on behalf of the other and make him change his mind, he does not do so; or in any similar case—he transgresses the prohibition, “You shall not stand by while your fellow's blood is shed.”

### שלחן ערוך חושן משפט תכ"ו: א

חייב אדם להציל את חברו בין בגופו בין בממונו ובו סעיף א': הרואה את חברו טובע בים או ליסטים באין עליו או חיה רעה באה עליו ויכול להצילו הוא בעצמו או שישכור אחרים להציל ולא הציל או שמע עכו"ם או מוסרים מחשבים עליו רעה או טומנים לו פח ולא גילה אוזן חברו והודיעו או שידע בעכו"ם או באנס שה' בא על חברו ויכול לפייסו בגלל חברו ולהסיר מה שבלבו ולא פייסו וכיצא בדברים אלו עובר על לא תעמוד על דם רעך:

## Text 29

### Shulchan Aruch Even Haezer, Laws of Ketubot 71:1

A man is obligated to maintain his sons and daughters until they are six years old even if they have property that they acquired through their maternal grandfather. And from six and up, he supports them based on a decree of the sages until they grow up. And if he does not want to, we yell at him and disgrace him and pressure him. And if he still does not want to, we declare in public and say: So and so is cruel and does not want to support his children and he is worse than the raven who at least nurtures his chicks. And we cannot force him to support them...When does this ruling apply? When there is no economic estimation. But if the estimate shows that there is enough money for them to get charity, we remove it from him by force, for charity purposes, and we feed them until they become adults. Rama: This is specifically for feeding daughters [as well], but we do not force him [with regards to how much he gives] to marry off his daughters. Even though it is a mitzva to give his daughters off to those who are appropriate for them, nevertheless we do not force it, except what he prefers to give, as long as he marries them off (Hagahot Mordechai in Kiddushin, and so writes TA"V Netiv 22).

### שולחן ערוך אבן העזר הלכות כתובות סימן עא סעיף א

א חייב אדם לזון בניו ובנותיו עד שיהיו בני שש, אפילו יש להם נכסים שנפלו להם מבית אבי אמם; ומשם ואילך, זנן תתקנת חכמים עד שיגדלו. ואם לא רצה, גוערין בו ומכלימין אותו ופוצרין בו. ואם לא רצה, מכריזין עליו בצבור ואומרים: פלוני אכזרי הוא ואינו רוצה לזון בניו, והרי הוא פחות מעוף טמא שהוא זן אפרוחיו; ואין כופין אותו לזון. במה דברים אמורים, בשאינו אמוד, אבל אם היה אמוד שיש לו ממון הראוי ליתן צדקה המספקת להם, מוציאים ממנו בעל כרחו, משום צדקה, וזנין אותם עד שיגדלו. הגה: ודוקא לענין מזונות הבנות, אבל לא כופין להשיא בנותיו, ואף על פי שמצוה ליתן לבתו נדוניא ראויה, מכל מקום לא כייפין ליה, אלא מה שירצה יתן, רק שישאן (הגהות מרדכי דקידושין וכ"כ תא"ו נתיב כ"ב).



### Text 30

#### Shulchan Aruch, Yoreh Deah, Laws of Excommunication, 334:43

For 24 things, a person is excommunicated and these are

1. One who degrades a sage, even after his death.
2. One who degrades a messenger of the rabbinic court
3. One who calls his friend a slave
4. One who is derogatory towards rabbinic law and obviously towards Torah law...
23. A Sage of whom bad rumours are being spread.
24. One who excommunicates someone who should not be excommunicated

#### שולחן ערוך יורה דעה הלכות נידוי וחרם סימן של"ד סעיף מג

ג] על כ"ד דברים מנדין את האדם, ואלו הן:  
 (א) סח המבזה את החכם, אפילו לאחר מותו.  
 (ב) סט המבזה שליח ב"ד.  
 (ג) הקורא לחבירו עבד.  
 (ד) ע (יד) המזלזל (טו) בדבר אחד (טז) מדברי סופרים, וא"צ לומר מדברי תורה....  
 (כ"ג) חכם ששמועתו רעה. פה  
 (כ"ד) פו <כא> המנדה למי שאינו חייב נידוי.



Rav Moshe Isserlis (1530–1572, born and lived in Kraow, Poland) also known as the Remah, adds a gloss to the Shulchan Aruch reflecting the Ashkenazi halakha of Eastern and Western European countries.

### Text 31

#### Rav Moshe Isserlis, on Shulchan Aruch, Yoreh Deah, Laws of Excommunication, 334:43

And for excommunication one needs testimony and clear evidence, but the matter must be assessed according to the truth and if the defendant insists there is truth, then even a child or a woman can serve as witnesses if the truth seems to be with the case (despite lack of absolute evidence).

#### רמ"א, שולחן ערוך יורה דעה הלכות נידוי וחרם סימן של"ד סעיף מ"ג

הגה: [סד] ואין צריכין לענין נידוי עדות וראיה ברורה, אלא אומד הדעת באמתות הדברים, שהתובע טוען ברי ואז אפי" אשה אפי" קטן נאמן, אם הדעת נותן שאמת הדבר .



Rabbi Joseph Colon ben Solomon Trabotto (1420-1480, France, Spain), also known as the Maharik wrote important responsa.

## Text 32

### Responsa Maharik 188

(translation Nechama Goldman Barash)

I have seen the words of the early and later sages and they speak in tandem with one another and it is clear that this Rabbi Aharon Riskia, is being relentlessly pursued without reason and it is clear even to the babes in the study hall of Beit Rabban that there is no value to the words of this cursed woman..and even if this one witness was a righteous and believable individual, he would not be believed at all...even more so with regard to a woman like this one who separated herself from the modest daughters of Israel, who is not believed even as one witness and not even as half of one and even to hate him (which is allowed if someone is wicked but it can't be proven) according to her testimony is prohibited... and even more so it is prohibited to embarrass him and to excommunicate him based on the words of that woman and one who disgraces him should ask for mercy since the dignity of the sons of Abraham, Isaac and Jacob is negligible in his eyes; and certainly it is an abomination towards especially if he caused someone to be disgraced in public as was done to this poor old man Rabbi Aharon, who was disgraced and humiliated and prevented from reading from the Torah in public and there is no greater "whitening of the face" than this...as it is written it is worse to whiten the face of a person than to commit adultery for that sin results in strangulation but allows for the world to come and disgracing someone in public excludes one from the world to come and one should behave with utmost caution to avoid disgracing someone in public for nothing and one must examine and reexamine the case many times before behaving in such a way and one who is lenient with this, blood is on his head without a doubt.... And if a person wants to be stringent about what is written in Babylonian Talmud Kiddushin 81a that one flogs a man based even on a rumour, the matter is simple, this is only when there is consensus among the majority of people that the rumour is true and it is not based on nothing. Furthermore, it is known that the rumour has a reliable source. Here however,

### שו"ת מהרי"ק סימן קפח

...ואפילו היה העד הוא אדם כשר ונאמן אין להאמינו כלל... וכ"ש ע"פ אשה כזאת אשר פרשה מדרכי בנות ישראל הצנועות דלא מהימנא אפי" כחד' ולא כפלגא דחדא ואפילו לשנאתו על פיה היה אסור כדפירש' ק"ו בן ק"ו שאסור לביישו ולהרחיקו מפני דברי האש' הזאת והמביישו יבקש רחמים על עצמו בהיות כבוד בני אברהם יצחק ויעקב קל בעיניו ובודאי כי תועבת ה' יתברך כל עשה אלה ורב עונשו מאד וכ"ש לביישו ברבים כאשר נעשה להעני הזקן רבי אהרן יצ"ו אשר ביישוהו והכלימוהו ועכבוהו שלא לקרוא בתורה בצבור ואין לך מלבין פני חברו גדול מזה ולו חכמו ישכילו המביישים יכירו וידעו כי גדול מה שנאמר במלבין פני חברו ברבים ממה שנא' בבא על א"א כמו שהשיב דוד לדואג ואחיתופל שהב' על א"א מיתתו בחנק ויש לו חלק לעה"ב והמלבין חברו ברבים אין לו חלק לעה"ב וראו כמה יש לו לאדם להזהר שלא להלבין פני חברו ברבים על חנם וראוי לחקור ולדרוש בכמה דרישות וחקירות קודם שיעשו מעשה כזה והמקיל בזה דמו בראשו בלי ספק... ואם יאמר אדם להחמיר עליו מדגרסין בשילהי קדושין (דף פא) מלקין על לא טובה השמועה הלא דבר פשוט הוא דהיינו דוק' בקול שהרבים מסכימים עליו ואינו פוסק דמסתמא י"ל שלא על חנם יצא קול זה אבל היכא שידוע לנו שהקול יצא ממי שאינו ראוי להאמינו כיצא בנדון הזה שהדבר ידוע שהיא הארורה הוציאה הקול ואין ראוי להאמינה כלל וכלל מכמה טעמים שפי" למעלה פשיטא ופשיטא שאין בקול זה ממש אלא הוי קול ושוברו עמו ואין להאריך בזה כי פשוט הוא אפילו לתינוקות של בית רבן דהיאך יטעה אדם לומר שמחמת קול הברה היוצא מחמת אשה כזאת שנלקה אדם שהוא בחזקת

where we know the rumour comes from a source that is not fit to be believed, and that it is known that this cursed woman started the rumour, and she cannot be believed in any way for several reasons that were explained above, then it becomes clear as day that this rumour has no substance and there is no need to elongate for it is simple, even according to the babes in the study hall of Beit Rabban for how can a man err and say that because of the echo of a rumour coming from such a woman, a man, who has the presumption of righteousness, will be lashed.

God forbid that we do such a thing in Israel for if so, we have not left a son to Abraham our patriarch, who will not be lashed...And therefore, justice will then be perverted, God forbid, for the promiscuous among our people will then rise up and spread rumours about anyone they hate and with malice they will spread these rumours and in such a way, rumours will be reported and everyone will be subject to lashes God forbid!

And it is true, the Rambam wrote in the laws of Sanhedrin, "that the rabbinic court can give lashes to a man based on bad rumours around promiscuity. This applies provided the rumor is heard continuously and the man has no enemies" However, I saw in the letter by ....who testified based on his honorable mother from...that she (the woman spreading the rumours) was advised to say that Rabbi Aharon impregnated her to quiet Rabbi Aharon for he was the one who knew the rumour about her (meaning about how she really became pregnant) and disgraced her (by letting her know he knew the truth of the pregnancy) by her account.

And if this is the case, then this is the definition of enemies spreading rumours out of hatred.

And it is known that she spread the rumour to quiet him and to take revenge for he knew the rumour about her as I learned ...

And behold, this unfortunate old man, Rabbi Aharon, cries out that he was never alone with her since they travelled in a group of three men [which is enough to remove doubt regarding promiscuous behavior]. And it is clear that he should not be excommunicated or disgraced and certainly not without a warning and even if you want to say that the court will use this as an example and excommunicate him because he did not put up enough of a fence around his behavior [by traveling with a woman], then why make an example of him when so many of the uneducated fold behave like this all the

כשרות חלילה וחס לא תהיה כזאת בישראל דא"כ לא הנחת בן לאברהם אבינו שלא ילקה ויחזור וישנה. וא"כ לקתה מדת הדין ח"ו כי בני פריצי עמינו יתנשאו להוציא דיבה על כל אדם אשר ישנאוהו ובאיבה יהדפוהו ומתוך כך יצא הקול וא"כ ילקה כל העולם כולו ח"ו. והנה ראיתי כתב ידיד הח"ר אליה יצ"ו בן מהר"ר שמואל ז"ל אשר העיד מפי הנכבדת אמו מב"ת שהיא/השיאתה/ השאיתה עצה לומר לרבי אהרן שממנו נתעברה כדי להשתיק רבי אהרן זה שהיה מחזיק הקול שיצא עלי' ומביישה לפי דבריה...

וגם ידוע שהיא הוציאה הקול להשתיקו וגם לקחת נקמתה ממנו על שהיה מחזיק הקול כמו שלמדתי מתוך דברי החר"ר אליה יצ"ו בכתב יד.

הוא מ"מ דבר פשוט הוא שאין לנדות וגם לא להבדיל או לבייש על כך כ"א אחר ההתראה וההזהרה ואף אם יבוא ב"ד לענוש על כן בלא התראה להוראת שעה לעשות גדר וסייג לתורה פשיטא שיש להו להשוות מדותיהן ולא להטיל עונש על אדם אחד ומשאר עמי הארץ אשר נוהגין תמיד לעשות המנהג הרע הזה העלם יעלימו את עיניהם חלילה מעשות כדבר הזה שאין זה סייג לתורה אלא חלול התורה כי יאמרו העולם שמחמת שנאה ואיבה החמירו על זה יותר מעל שאר אנשים ונמצא ש"ש מתחלל ח"ו. סוף דבר נראה לע"ד שהמרחקין ומבדילין זה רבי אהרן הזקן לא טוב עשו אלא חטאו חטאה גדולה ואפשר כי בשוגג היה ואם ח"ו יוסיפו סרה מכאן ולהבי' אחרי ראותם כתב הרבנים יצ"ו אשר עמם בגליל ועוד יתנו כתף סוררת למען ספות הרוה את הצמאה ח"ו יבקשו רחמים על עצמן כי גדול מאד העונש המבייש והמלבין פני חבירו ברבים חנם כמו שכתבתי למעלה וגרסינן בגיטין פ' הנזקין (דף נז) תניא אמר ר"א בא וראה כמה גדול כח של בושה שהרי סייע הקדוש ברוך הוא את בר קמצא כו' ועל דבר זה ידו כל הדווים שלא לבייש בני אברהם יצחק ויעקב מחזיקין בדת האמת על חנם ועל לא חמס. ואל ק"ק פדוא"ה בקשתי לצרף זה ר' אהרן לכל

time and we ignore their behavior and it will seem like the court hates this poor man. And it seems that this alienation of Rabbi Aharon was not correct and the court sinned terribly and its possible it was done inadvertently and if they continue in this terrible manner, from here on in, they will have to ask mercy for themselves for the incurring the punishment of one who disgraces and whitens the face of his friend in public for nothing, as I have written above

...And I requested from the holy community of Padua I that they include Rabbi Aharon in every matter having to do with holiness and what was is no longer relevant and because they are an important congregation, I bear their iniquity for they did not listen to our teachers and sages and they brought ill will upon Rabbi Aharon

...And to the community leader of the Padua congregation, I say that he will be worthy of excommunication if he does not call Rabbi Aharon up to the Torah..., especially since he stood and cried out that he would accept the court's verdict if he was in fact found guilty...

Based on all of this, I declare that on the first Shabbat that comes around, Rabbi Aharon will come to the synagogue of the Ashkenazim of Padua during the Torah reading and will be called up to read from the Torah like all of the other members of the faith...and this issue will no longer distance him and will not disgrace him further in public which leads to a loss of the world to come and if he hears these words, peace be with him and may he be blessed for good.

דבר שבקדושה ולא תהיה זאת עוד לכם לפוקה ובמה שעשו כבר דים והותר ואלמלא פניהם אני נושא כי קהל חשוב הוא הייתי מרחיב הדבר בזה בדרך לא /היתה/ הייתם תפארתם כאשר לא שמעו לקול רבותינו אשר בגלילותיהם כולם שוים לטובה לזכות זה הזקן אהרן יצ"ו ולהקפיד על עלבונו שהרי גם מהר"ר יודא לנד"א יצ"ו הקפיד על הנעשה לו מתחילה ובסוף.

ועל הסגן של ק"ק פדוא"ה יצ"ו אומר שהוא ראוי להתנדות אם לא יקרא זה רבי אהרן רסקיא"ה יצ"ו לקרא בתורה בהגיע תור שלו כשאר בני ברית הכשרים ובפרט כי כבר קא צווח כי כרוכיא היותו מוכן לקבל את הדין רבותינו אשר שם אם ח"ו ימצא לו שום פשע ואשם ועוד הוא עומד וצווח על כך. וע"פ הדברים האלה אני גוזר עליו בכח נח"ש שבשבת ראשון שיגיע זה הזקן רבי אהרן בבית הכנסת מהאשכנזים מק"ק פדואה יצ"ו בשעת קריאת התורה שיקראוהו לעלות לקרא לס"ת כשאר בני ברית ולא יסרב עוד על דברי רבותינו אשר שם אשר כתבו לקרבו ולא להרחיקו וגם לא תהא עוד המכשלה הזאת תחת ידו להלבין פני חבירו ברבים חנם אשר אמרו רבותינו ז"ל על זה שאין לו חלק עולם הבא ואם שמע ישמע שלום יהיה לו ועליו תבא ברכת הטוב:



Rabbi Isaac ben Sheshet Perfet (1326-1428, Spain) also known as the Rivash survived the Spanish persecution, and wrote important responsa (translation Nechama Goldman Barash).

### Text 33

#### Responsa Rivash 265

To those who investigate the offenses in the Algiers community:

I saw your correspondence. The case brought to you by Algozar, wife of Rabbi Jacob son of Joseph, against Rabbi Isaac HaCohen as follows:

That he walks behind her without warning and tells her that he loves her. He said to her, if you do not do this for me, give me one kiss, I will die of love for you.

And also, another time, he called her to come up to his house and she understood his intentions were for evil and did not want to come up and then he said terrible things to her and told her that he is practiced in doing such things to others.

And Rabbi Isaac responded to her allegations and denied everything. And explained that he never intended anything for evil. But since they were once neighbors, they had played together, in jest, as lovers do. And they never became accustomed to such things. For he is a righteous Jew.

And the investigators asked her: Why did you not come until now since you have described several instances in which he came upon you.

And she answered: Out of fear for her husband, so that he not fight with him and possibly cause his death.

And they further said to her: Do you have a witness to any of this?

And she said that she told all of this to Anshmuel son of El Raviach. And he testified and took an oath that he did not know and did not see any such thing. But he admitted that she did tell him these things as described above. And he said to her at the time, why did you not say anything until now? And she answered him, so that a fight not break out between her husband with another Jew. And she also answered and told the investigators: This man was already warned by those investigating, not to speak to the

#### שו"ת הריב"ש סימן רסה

לברורי עברות של קהל אלגזירה, י"ש צ"ו.  
ראיתי כתבכם: על הבקשה שעשתה לפניכם, אלגוזה אשת רבי יעקב בן גוסף, כנגד ר' יצחק כהן. שהוא הולך אחריה פתאום, באמרו אליה: כי הוא אוהב אותה. עד שאמר לה: אם אין את עושה בעבורי, תן לי נשיקה אחת, שלא אמות בעבורך. וגם, שפעם אחרת, קרא אותה לעלות לביתו, באמרו: שדלף טורד בבית /משלי כ"ז: ט"ו/. והיא הבינה כונתו כי היתה לרעה, ולא רצתה לעלות. ואז אמר לה דברי נבלה, ושהוא מלומד לעשות כן לאחרות. ורבי יצחק כהן השיב על טענותיה, וכחש בה. באמרו: שמעולם, לא היתה כונתו לרעה, וחלילה לו. אבל, לפי שהיו שכנים, היו משחקים דרך צחות, כמו שמשחקים אהובים. ושמעולם, לא הורגל בזה, כי הוא יהודי יושב בחזקת כשרות. והברורים שאלו לה: למה לא באה לפני הברורים עד עתה, מכמה פעמים שהיא אומרת: שהיה ר' יצחק הנזכר, הולך אחריה? וענתה ואמרה: כי מפחד בעלה, שלא יתקוטט עמו, ויהרגו זה את זה. ועוד אמרו לה: אם יש לה שום עד על זה? וענתה: כי היא אמרה הדברים ההם, לאנשמואל בן אל רויח. והוא העיד בכח שבועתו: שלא ידע, ולא ראה דבר בכל אלה. רק, שהיא אמרה לו הדברים, כאשר הם כתובים למעלה. והוא אמר לה: ולמה לא אמרת עד עתה? וענתה אליו: כדי שלא יהא קטטה לבעלה עם יהודי בעולם. ועוד ענתה ואמרה לפני הברורים: שכבר עשו לו התראה, הברורים, שלא ידבר עם אשת שמואל פניאל, ושלא לבא עמה, במקום חשד. ור' יצחק אומר: שזה היה מחמת קטטה, שהיתה לו עם שמואל פניאל הנזכר. ושיש מזה, יותר מששה שנים. ושמאז ועד עתה, לא היה לו שום חשד בעולם. אלו הן טענותיהן.  
תשובה: מאחר שאין לאלגוזה"ר עדים על טענתה כנגד יצחק כהן הנזכר, אין ראוי להאמינה בדבורה

wife of Shmuel Pniel, and not to come near her, because of suspicion [of him]. And Rabbi Isaac explained: This was because of a disagreement he had with Shmuel Pniel. And this was more than six years ago. And since then, there has been no suspicion of him. These are the claims.  
Answer: Since Algoher has no witnesses to her claim against Isaac HaCohen, there is no reason to accept the legality of her words only and to suspect him of such an ugly thing and to punish him for it.

But, in order to separate them from what it is prohibited, it is appropriate to order him, upon pain of excommunication to never speak to her neither good nor bad and they should not live in the same neighborhood.

And also, if there is a presumption in your eyes of suspicion of sexual impropriety, even if there are no witnesses, it is appropriate to rebuke him sharply and to threaten him: If he does not act in a righteous manner, he will be ostracized from the community and you will push him away with two hands as is written in the Babylonian Talmud Kiddushin 81a to give lashes based on a bad rumour (regarding sexual misconduct)...and as the Rambam wrote as well.....

לבד, ולחשדו בדבר כעור, ולייסרו ולהענישו. אבל, כדי להפרישם מאסור, ראוי לצוות עליו בכח נדוי, לבל ידבר עמה: מטוב ועד רע. וכן, שלא ידור בשכונה אחת.

וכן, אם מוחזק בעיניכם: בחשוד על העריות; אף אם אין עדים בדבר, ראוי לגעור בו בנזיפה. ולאיים עליו: שאם לא יתנהג כשורה, שתבדילוהו מכם לרעה, ושתדחוהו בשתי ידיים. כמ"ש חכמינו ז"ל (קדושין פ"א): מלקין על לא טובה השמועה; שנאמר: אל בני לא טובה השמועה וגו'. וכמש"כ הרמב"ם ז"ל (בפרק כ"ד מהל' סנהדרין), וז"ל: וכן לב"ד, בכל מקום ובכל זמן, להלקות אדם ששמועתו רעה, והעם מרננין עליו, שהוא עובר על העריות. והוא, שיהיה קול שאינו פוסק, כמו שבארנו. ולא יהיו לו אויבים ידועים, שמוציאין עליו שמועה רעה. וכן, מבזין את זה ששמועתו רעה, ומחרפין את יולדתו בפניו, עד כאן.

וכן, אם מוחזק בעיניכם: בחשוד על העריות; אף אם אין עדים בדבר, ראוי לגעור בו בנזיפה. ולאיים עליו: שאם לא יתנהג כשורה, שתבדילוהו מכם לרעה, ושתדחוהו בשתי ידיים. כמ"ש חכמינו ז"ל (קדושין פ"א): מלקין על לא טובה השמועה; שנאמר: אל בני לא טובה השמועה וגו'.