YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha in the Age of Social Media**

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Dedicated in memory of Rabbi Jack Sable z”l and

Ambassador Yehuda Avner z”l

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**Shiur #01: Introduction**

For almost two decades, the web has changed the world and revolutionized how information is stored, published, searched and consumed. The ripple effect has spread so wide that it impacts not just businesses and industries but crosses over into politics, medicine, media and breaches geographical locations, cultural boundaries and ultimately, affects people’s day to day lives.[[1]](#footnote-1)

As the above quote captures aptly, the drastic improvements in communications technology — and most recently, the explosion of social media — have radically changed how people live their lives. However, while much academic and popular writing has been devoted to analyzing these effects, little has been written about how it affects Halakhaor the ways in which Halakhacan address the fundamental questions raised by these technological advances.

**Existing halakhic material**

The aspects that have been covered are, for the most part, those that represent a **quantitative** change over what existed previously. For example, a quick search of YUTorah Online will reveal many lectures devoted to the laws of *lashon ha-ra (*gossip) in the age of social media. Fundamentally, the principles stay the same: there are circumstances under which it is permitted to spread negative information and situations in which it is forbidden. Several of the factors relate to the spread of information: how likely it is that the information is already known, how many people it is being spread to, etc. While social media has obviously expanded the potential reach of gossip, the principles of the relevant laws are easy to apply.

The laws of *marit ayin* (appearance of impropriety) and *chashad* (suspicious behavior) are similarly affected. As Jews, we are obligated to avoid not only violating the Torah’s laws, but also acting in a way which appears to be prohibited. In a world where a picture can be spread instantly to the entire world, we must be especially careful with not just what we do, but how it could be perceived by total strangers. On the flipside, as we know that information can be spread quickly without time for verification, the value of judging favorably becomes ever greater. Expanding the principles to cover the world of social media is relatively straightforward. Both of these issues were touched on after recent confusion regarding a “celebrity selfie” on Shabbat — or after Shabbat, as it turned out.[[2]](#footnote-2)

**Questions which must be asked**

However, there are more radical changes that have been dealt with to a lesser extent. Communications technology and social media affect the way we experience relationships; access information (about people or general knowledge) and make assumptions when we have not gained information; form communities; censure misbehavior; and deal with a host of other issues. It is worthwhile considering how this affects Halakhaand what Halakhacan add to conversations about these topics —especially if we believe that Halakhacan and should speak to every era. It is to these questions, both the obvious and the less so, that we will be devoting this series. Before we pursue each topic in depth, outlining several issues we will discuss may prove helpful.

**Relationships**

Social media has had contrasting effects on our relationships. On the one hand, it allows us to stay connected to or reconnect with friends from long in the past. It further enables forging connections easily with people whom we have never met. On the other hand, it is often tempting to use social media to replace in-person communication and all the benefits that comes with that.

While this issue may not seem legal in nature, in the realm of *berakhot* (blessings), it indeed has an impact. The Talmud records several blessings that are to be said to capture the joy of renewed relationships, such as *She-hecheyanu* (“Who has kept us alive”), which is said upon seeing a friend for the first time in thirty days*.* Do we say this blessing if we have not seen our friends in person, but have been in contact by email or phone? What about by Skype? What if we have not directly spoken, but are aware of our friends’ activities because of constant posts on social media? On the flipside, should we say the blessing upon making contact for the first time in a month? The laws of blessings allow us to ask the larger question: what kind of relationships does Halakhavalue? This issue relates to several other blessings.

**Accessibility of information about people: Can you lose someone in the modern world?**

Once it was easy to disappear: travel to a foreign country, cut off contact, and people might never know what happened to you. Nowadays, it is harder to go off the grid. As the Strava exercise app debacle showed, people are tracked nearly everywhere they go.[[3]](#footnote-3)

This fact can impact varying areas of Halakha*.* For example, there is a blessing said after not seeing a friend for a year, *Mechayeh Ha-meitim*  (“Who resurrects the dead”). According to many, this is because if one had not seen someone for a year in the time of the Talmud, it was distinctly possible that he or she had died. Thus, upon seeing a friend alive, one was required to thank God for this “miracle.” Can the same be said nowadays, when we are aware of most salient details about our high school friends, even when we have not met them in decades?

A similar question arises in the arena of *ishut,* marital status. A woman whose husband has gone missing becomes an *aguna,* an anchored woman, as she retains the presumption that she is married until we know otherwise. However, in the aftermath of 9/11, rabbinic authorities wondered whether this presumption could be challenged. If a husband was known to be in the Twin Towers during the attack and never showed up afterwards, could this be taken as proof that he was dead? When information is so easily disseminated, do we have to be worried that he ran away or forgot who he was, ending up somewhere else, and no one found him?

**Community building**

Jewish communities are classically built along geographic lines. This has effects in terms of the binding nature of communal customs, whom one takes as a halakhicauthority (as evidenced by the status of *mara de-atra,* literally: master of the place) and many other issues. Nowadays, ease of communications has enabled the creation of virtual communities formed along the lines of ideological identification or common interest. Does this spill over into how we define communities for these halakhicpurposes?

**Creating communities to censure activity**

This also touches on other matters. For example, one weapon that Jewish courts traditionally had to penalize sinners was excommunication. This was effective when being part of the Jewish community was almost inescapable. However, as the ghetto walls fell and people could leave the community willingly, this tactic became less effective. Recent rabbinic courts and authorities, however, have weighed in on whether social media shaming can or should be used to recreate this dynamic, a question that is relevant for issues such as *agunot* or the recent #MeToo movement.

These are just some examples of the kinds of questions we will ask and issues we will tackle.

**Methodology**

There are two main methodological points that are necessary to tackle these issues.

1. **Finding Precedents from Similar Situations**

Social media is not the first advance in communications technology. With the advent of postal services, the printing press, steamboats, trains, etc., humanity took leaps forward in terms of interconnectedness. Thus, halakhicscholars asked similar questions to those we raised above in each of those eras. Seeing how they dealt with the quantum leaps of their times will help us assess our own moment. Thus, while most of the *shiurim* will focus on the questions raised by social media, sometimes we will focus on issues that are more generally related to advances in communication technology.

1. **Starting with Life**

There is no Code of Jewish Law and Social Media. One cannot simply open the classic texts of Jewish law to figure out the ways in which Halakhacan speak to these issues. However, practical Halakhais the interface between theoretical law and reality.[[4]](#footnote-4) If we cannot start with a clear body of law, then we must start with reality — with life.

We will start by considering the dimensions of our experience that have been altered, for the better or worse, by social media. Then, we can look towards Halakhato figure out what categories of law relate to each kind of change.

**Goal**

The purpose of this series is to engage seriously from the vantage point of Halakha with the one of the phenomena that has most profoundly affected modern life*.* I hope that this will give us insight into our own lives and reinforce our belief in the Torah’s timeless ability to speak to the challenges of every generation, helping inform our behavior on these powerful platforms to ensure we use them positively as a community.

1. Jennifer Alejandro, “Journalism in the Age of Social Media,” Reuters Institute Fellowship Paper, University of Oxford, 2010, available at: <https://bit.ly/2IRuiPR>. [↑](#footnote-ref-1)
2. See Rav Gil Student’s two posts on the topic: <https://www.torahmusings.com/2017/11/celebrity-selfies-shabbos/>, and <https://www.torahmusings.com/2017/11/judging-a-stranger/>. [↑](#footnote-ref-2)
3. Strava wanted to show how widely it was used throughout the world. To do this, they posted a “heatmap” of users. When people used the application to track their runs, GPS would track their activities. The heatmap showed records of where people around the world used the app. The problem arose when members of the intelligence community realized that the map showed running paths in places such as empty mountain ranges in Afghanistan. Apparently, soldiers had been using the app while running. The heatmap exposed secret bases in the heart of these mountains. Similar problems arose in Israel, where the app seemed to show the paths of elite soldiers on Mt. Hermon. See: <https://www.usnews.com/news/world/articles/2018-01-29/fitness-app-strava-reveals-military-security-oversight>. [↑](#footnote-ref-3)
4. Our focus, as mentioned, is practical Halakha*.* From the vantage point of theoretical Halakha*,* it matters less in what ways the laws will be applied in any given situation; what matters is the principle of the law. When Rav Soloveitchik spoke of Halakha*,* he referred to this. Drawing on *Ma Dodekh Mi-dod* and *Ish ha-Halakha,* Rav Tamir Granot summarizes it as follows:

   In the "learning" context, where Halakha is a theoretical system, the idealism of Halakha is established as a result of its being a pure and abstract conceptual system (*Ma Dodekh Mi-dod*, pp. 80-81). On the normative, practical level – i.e., halakhic ruling and practice – the idealism of Halakha means that the system of norms is not drawn from the factual reality (ibid., pp. 76-77); rather, Halakha is a system of a priori law, through which a believer relates to reality. It is form, and reality is its substance (ibid., pp. 86-89). Rav Soloveitchik argues that not only is Halakha not dependent on reality; it is a system of given ideals.

   What is the relationship between the system of halakhic idealism and the real world? Here we encounter an interesting tension in Rav Soloveitchik’s thought, with its origins traceable to his early work, "Ish ha-Halakha."

   On the one hand, he argues that "the aspiration [of Halakhic Man] is not the realization of Halakha, but rather the ideal construction" (Ish ha-Halakha, p. 31). Later on he asserts, "Halakhic Man does not foresee the possibility of the realization of the norm in the real world" (ibid., p. 60). "From this perspective, the ethos of molding the world is likewise reinterpreted; it is no longer an ethos of molding the real world, but rather the ethos of creating a theoretical world – a world in which the freedom and creativity of the Halakhic Man are revealed through 'chiddush' and theoretical construction" (ibid., p. 61).

   However, as Rav Granot continues, Rav Soloveitchik also noted that it is particularly in the realm of practical Halakhathat Halakhatruly molds reality:

   On the other hand, Rav Soloveitchik also provides a clear presentation of the ethos of molding the real world as the quest of Halakha: "The ideal of Halakhic Man is subjugation of reality to the yoke of Halakha” (ibid., p. 35); "The certification of a religious person is bound up with the performance of the commandments, and this activity is possible only in this world, in the bodily and tangible reality… only against the tangible and sensible background of life in this world can Torah be realized" (ibid., pp. 37-38).

   These contradictory goals apparently reflect the dual significance of the Halakha in Rav Soloveitchik’s philosophy: a theoretical system on the one hand, and a normative, practical system on the other. If Halakha is perceived as a purely conceptual system, and not as practical norm, then it is not the realization of the norm that is the purpose of the system, but rather its abstract construction (i.e., scholarly “chiddush,” according to the Brisker approach). This is only one step away from floating off into the realm of halakhic concepts and ideals. However, if Halakha is seen as a normative, practical system, one’s approach must seek the realization of the norm in this world as a religious ideal.

   See: <https://www.etzion.org.il/en/lecture-22b-rabbi-joseph-b-soloveitchik-holocaust-part-2>.

   Our goal in this series in the latter: to use Halakhatomold our perception of reality. However, from this perspective, we must start with the reality to figure out what to mold. [↑](#footnote-ref-4)