YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha in the Age of Social Media**

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**Shiur #09: *Marit Ayin, Chashad,* and Social Media**

[Last week](https://etzion.org.il/en/shiur-08-judging-favorably), we discussed the obligation to judge favorably and the implications for people who view others through the lens of social media.

The next issue to explore is the following: how does the reality that someone may always be watching us effect how we must conduct ourselves? Knowing that a picture may be taken out of context, and that there will be likely no option to clarify what the picture actually shows, how careful must we be to make sure that no one, anywhere, will have reason to doubt our integrity and piety?

As we mentioned last week, the high school students who innocently took a selfie after Shabbat with Conan O’Brien had no idea how that picture would be understood. When Conan wrote that he needed to take the picture on his phone as the students did not have theirs due to Shabbat, they did not realize that would be interpreted to mean that they had taken the picture on Shabbat itself. Did they have to be concerned about this? While their principal used this as an educational moment to teach them about how easily their reputations could be ruined in the world of social media, were they halakhically bound to be worried about such eventualities?[[1]](#footnote-1)

This is especially poignant when so many politicians and celebrities have destroyed their careers and reputations because of a single post on Facebook or Twitter. In many of those cases the people were actually guilty of the indiscretion, but this phenomenon still highlights the power of social media to destroy one’s public image. There are as many cases of people whose reputations were destroyed due to a mistake over those same media. We will return to the relevant prohibitions involved in using these media to destroy the lives of others, but in this essay we will limit ourselves to our obligations to protect our own images, even when we have done nothing that deserves suspicion.

**The difficulty of maintaining a righteous image**

First, we need to establish that we care about perceptions at all. If we are doing nothing wrong, why should we care what other people think?

*Chazal* insist many times that we do need to be concerned. When Moshe instructs the tribes of Reuven and Gad that they must fight as the vanguard for the Jews in the Land of Israel in order to be allowed to inherit on the east bank of the Jordan, he tells them “*Vihyitem nekiyim mei-Hashem u-miYisrael,”* “And you shall be clean before God and Israel” (*Bamidbar* 32:22).

From here (and from a similar verse in *Mishlei* 3:4), the Mishna derives an obligation to not only avoid sin, but to avoid the perception that one has sinned — to remain innocent in the eyes of people, not just God. The Mishna writes this in the context of the extent to which the treasurer of the *Beit Ha-mikdash* must go to ensure that no one suspects that he is stealing funds. The Mishna assumes that people will always suspect him of pilfering the property of the Temple: if he becomes rich, they will assume he stole; if he becomes poor, they will assume he stole and was being punished by God for having stolen. No matter his financial situation, people will look for reasons to accuse him of dishonesty. The solution, according to the Mishna, is for him to avoid wearing anything in which he could hide money:

The one who made the appropriation did not enter the chamber wearing a bordered cloak, or shoes, or sandals, or tefillin, or an amulet, lest he become poor and [people] say that he became poor because of a sin committed in the chamber, or lest he become rich and [people] say that he became rich from the appropriation in the chamber. For one must be free of blame before others as he must be free of blame before God, as it is said: “And you shall be guiltless before the Lord and before Israel” (Numbers 32:22), and it says: “And you will find favor and good understanding in the eyes of God and man” (Proverbs 3:4). (Mishna, *Shekalim* 3:2, translation from Sefaria.org)

The Yerushalmi (*Shekalim* 3:2) offers several other sources for this obligation, from Torah, *Nevi’im* and *Ketuvim*.

The Chatam Sofer bemoans the difficulty of this expectation:

[K]now that my whole life I have been troubled by the verse, "And you shall be clean before God and Israel," and these two obligations we have: to be clean before God and clean before Israel His nation. These are two paired riders on our backs.

However, it is much easier to fulfill the first obligation, meaning, in the eyes of God, then it is the second, to fulfill one’s obligation to people. For they think strange thoughts and the weavers speak of it by moonlight. Its punishment is quite severe, to no end, more than one who does not fulfill his obligation to heaven, God forbid. This emerges from the Talmud at the end of Chapter *Yom Ha-kippurim* (*Yoma,* Chapter 8) regarding desecrating God’s name, which has no atonement, such as when a rabbi purchases meat but does not pay right away.

In our great iniquity, people commonly talk about how this studious person did such and such. It is fluent in their mouths, even if it is just a suspicion. And in this case, even if the studious person acted properly in the eyes of God as much as possible, but not carefully enough, such that some drunkards made a mistake about him and wrote mocking songs about him, he has been caught in their trap. Over this, all sufferers shall grieve, and the verse screams out: “You have let them ride over us.” (*Tehillim* 66:12).

And I have wondered many times if it is even possible that a person in the history of the world has fully fulfilled this verse. Perhaps this idea is included in what King Shelomo said “There is no righteous person in the world who does only good and no wrong" (*Kohelet* 7:20) — which means to say that even if his deeds were all good [in the eyes of God], it is impossible to not sin in the second way, fulfilling the obligation [in the eyes of] people. *(Responsa Chatam Sofer,* Volume 6, *Likutim*, #59).

If the *Chatam Sofer* wrote this in his time, how much truer it is in the age of social media. All that needs to happen is for someone to snap a picture that might be perceived as compromising, post it to Facebook or Instagram, Tweet it, send it to a few friends, and countless strangers will doubt the integrity of an innocent person. If Halakha demands that we avoid being suspect even in such cases, how could anyone claim to have fulfilled his obligation to keep his reputation clean in the eyes of humanity!

***Marit Ayin***

Based on the ethos of this value, the Talmud in many places presents a rabbinic prohibition of *marit ayin,* avoiding circumstances in which someone seems to violate a prohibition, even if in fact that individual is doing no such thing.[[2]](#footnote-2) *Encyclopedia Talmudit* (*Chashad*) notes that the cases in the Talmud seem to indicate that it is prohibited to cause people to think that one is currently violating a sin, that one has violated a sin in the past, or that one is going to violate a sin in the future.

Thus, the Gemara in *Keritut* (21b) forbids eating collected fish blood, even though fish blood is not forbidden, as it looks like one is eating forbidden animal blood, i.e. violating a prohibition in the present. The Mishna in *Shabbat* (146b with Gemara) forbids one whose clothes are wet after falling into water from hanging his wet clothes on Shabbat in front of people, lest they think he has washed his clothes on Shabbat, meaning that he has violated in the past. The Mishna in *Beitza* (9a with Gemara) cites Beit Shammai, who forbid moving a ladder from dovecote to dovecote, out of the concern that the person may be suspected of going to fix his roof in the future — meaning later in the day on *yom tov*.

Some Rishonim further forbid perform permitted acts which other people mistakenly believe are forbidden.[[3]](#footnote-3) However, some Rishonim suggest that this is a more lenient kind of *marit ayin,* permitted in private.[[4]](#footnote-4)

In the Bavli, Rav (*Shabbat* 146b) is cited as saying that these prohibitions are forbidden even in private. However, in the Yerushalmi (*Kilayim* 9:1), this seems to be presented as a dispute. While this Yerushalmi is cited by some Rishonim, the majority position, as recording in *Shulchan Arukh (OC* 301:45) is in accordance with Rav. This, however, may be limited to *marit ayin* of biblical, not rabbinic prohibitions.[[5]](#footnote-5)

Why would prohibitions done in private be prohibited out of concern for what people might say? There is no one there to misinterpret it! *Encyclopedia Talmudit*[[6]](#footnote-6) summarizes the three possibilities that emerge:

1. We are concerned that someone may indeed see these actions even in private.
2. We are concerned that if someone gets used to doing something in private, that person may do so in public where someone will see him.
3. We apply the principle of *lo pelug:* once something is prohibited rabbinically, we forbid it across the board.

Some Poskim, such as the *Peri Chadash*, argue that only those things which *Chazal* explicitly prohibited because of *marit ayin* are prohibited. Anything else is permitted.[[7]](#footnote-7) Others, however, argue that this is not the case.[[8]](#footnote-8)

However, the *Peri To’ar* notes that even if we are lenient following the *Peri Chadash*, as the Torah clearly cares about presenting ourselves in a way that does not cause others to believe we are sinners, it is worth being stringent unless there is a compelling reason to be lenient.[[9]](#footnote-9)

***Chashad***

Sometimes, a prohibition that seem related to *marit ayin* is referred to as *chashad —* it will cause one to be suspect.[[10]](#footnote-10) Rav Moshe Feinstein (*Responsa Iggerot Moshe, OC* 2:40, 4:82) suggests that these are distinct categories.

He writes that *marit ayin* refers to cases where *Chazal* wanted to avoid having a person do something that might cause others to violate prohibitions, by mimicking the activity in cases that were more problematic. This is rabbinic in nature.

*Chashad*, on the other hand, refers to cases in which an observer may assume that the actor is violating a prohibition — and this is the biblical prohibition based on being clean in the eyes of man, which we saw above. This is true even though people should really give the “violator” the benefit of the doubt. However, as the Torah knows that this will not always happen, it forbids people from engaging in such suspicious activities. (Note that many believe that all these prohibitions are rabbinic.[[11]](#footnote-11))

*Responsa Chesed Le-Avraham* 1:21 cites *Chavot Da’at,* suggesting that *chashad* applies even when the actions can be interpreted equally as permitted or forbidden. The formal prohibitions of *marit ayin* is only introduced for things that seem more likely to be prohibited.

*Chashad* has positive obligations attached to it. For example, *Shabbat* 23a obligates one who has two entrances to his courtyard to light Chanuka candles at both entrances, so no one will suspect him of being derelict in his mitzva.

In a separate piece (*Iggerot Moshe, OC* 1:96), Rav Feinstein suggests that there are limits to this. In cases in which one is doing something that doesn’t even look prohibited, but someone else might think that it is prohibited due to a mistake, one does not have to be concerned. Thus, he feels it is permitted for a man to drive to shul after lighting candles but before Shabbat has started, even though women might think that it was prohibited as women generally do not perform *melakha* at this point. However, in highlighting the sensitivity the Torah has for maintaining one’s reputation, Rav Feinstein committed not to do this after someone criticized him for it.

**When things become accepted**

The Mishna (*Kilayim* 9:2) prohibits wearing wool garments that are mixed with silk. This is because wearing *sha’atnez,* a mixture of wool and linen is biblically forbidden, and many people cannot distinguish silk from linen. The Rema (*YD* 398:2), however, writes that it is permitted nowadays, as silk is common and people are aware that what seems to be linen is probably silk and permitted.

Bach (ibid.) and Shakh (ibid. 2) note that this is even true when the average person cannot distinguish based on looking at the material; it is sufficient that silk is common and that there is a ready explanation as to why the person is not violating *sha’atnez.* Rav Asher Weiss states that the simple understanding of this is that we even waive those prohibitions of *marit ayin* instituted by *Chazal* when the situation becomes such that there is no longer any concern. While he notes that some disagree, this is the accepted position.[[12]](#footnote-12)

*Responsa Cheishev Ha-eifod* (1:20) uses this to permit eating margarine on bread with meat, because margarine is as common as butter, so there is no reason for someone to suspect the person is using the prohibited dairy one rather than the *pareve* one. Rav Ovadya Yosef (*Responsa Yabia Omer, YD* 6:8) uses the same argument to permit having *pareve* milk at meat meals. Some, however, are less confident and require putting a visible sign on the table to indicate that the milk is not dairy,[[13]](#footnote-13) and are hesitant about using margarine.[[14]](#footnote-14)

This argument is used by Rav Moshe Feinstein (*Responsa Iggerot Moshe, EH* 2:12) to permit women to cover their hair with wigs, even when it is hard to distinguish from their real hair. He says this even though he knows that there are many women who don’t cover their hair, thus creating a real concern. Thus, Rav Feinstein seems to think that *marit ayin* is waived when there is a reasonable explanation for one’s seemingly prohibited activity, even when the concern is not dispelled. (He does add the possibility that we limit the prohibition of *marit ayin* to those things that were already instituted as another reason to be lenient.)

**In the age of social media**

What are the implications in the age of social media? Without getting into all the details, the position of the *Peri To’ar* is particularly relevant. Even if one could make an argument for why any specific act might be permitted, the thrust of the Halakha is that one should try, even when not formally obligated, to avoid situations that may be interpreted as questionable.

For some, the reason *Chazal* forbid actions even in private due to *marit ayin* is that there may actually be someone watching. While this concern may have once been farfetched, it no longer is. One may see no camera, but so many scandals have happened because someone was there to catch a picture on his or her phone. That incriminating photo, whether it captures a real crime or not, can and often will be spread across the world. One may never be able to delete it or erase it from the internet or from people’s memory.

This is the reality of our world: being concerned about *marit ayin* in *chadrei chadarim* (chambers within chambers, i.e. innermost rooms) is not just the *halakha*, but it is good advice. The same goes for what we say, which can and often is taken out of context by people too lazy to read everything we have said or written, or by those who are intentionally trying to “catch us” in indiscretion. Similarly, knowing that whatever we write does not have our tone of voice accompanying it, we must be careful about what we write, so that it will never be understood in an offensive manner, when that is not what was intended. We all know of how many fights, personal or political, have been caused by misunderstood Tweets or Facebook posts.

As mentioned, this is important because we need to maintain our image as the good people that we strive to be. More than that, however, as we have seen, some commentaries think these laws are meant to protect others from violating sins as well. When people think we are violating sins, they are more likely to mimic those sins, or similar ones.

As we saw last week, the Maharil Diskin and others believe that the obligation to judge people favorably stems from a desire to ensure that society holds itself to high standards. As people often strive to be as good, or only slightly better, than the person next door, the perception that people are sinning weakens the communal resolve to be good. The categories of *marit ayin* and *chashad* obligate us to avoid as much as possible damaging the communal self-perception of righteousness. If we are not careful, and our images are used to make people think that certain sins are commonplace, we have contributed to the collective lowering of expectations.

Many Poskim, however, have noted that we are more lenient in cases of compelling need. There is admittedly a limit to what we can do to avoid becoming suspect. Try as we may, we can never fully avoid the possibility that what we do may be misconstrued. While it is critical that we do our best, we cannot cause ourselves psychological stress trying to ensure that no one, anywhere, will be able to understand our innocuous words and actions in a negative light. The fact that Poskim are willing to use this type of argument in cases where the potential for misunderstanding is great lends credence to the intuition that there must be a limit to when we are required to be concerned about the potential perception of our actions by others.

Similarly, once a plausible counter-explanation, not based on the assumption that we are sinning, exists, many Poskim are willing to be lenient. As we saw, Rav Feinstein is willing to be lenient and to allow married women to wear wigs, even though he knows that many married women do not cover their hair, and thus there is a real concern that people would suspect the women in question is not covering her hair. A similar argument can be made for many things in life. We are all aware of countless cases in which people’s lives have been destroyed by a misunderstood post on social media. We can expect a certain level of understanding by others of this reality. We should, therefore, be able to engage in normal activities, whenever the positive interpretation is not just possible, but the most plausible.

Nevertheless, the extent to which *Chazal* go to force us to protect our own image is striking. This standard, combined with the all the tragic cases of destroyed lives arising from misunderstandings on social media, should encourage us to exert extra caution in everything we do. As the principal told his students, they may not have imagined what that selfie would cause, but such a situation is not anomalous. We must expect that eventuality and do our best to avoid it. The near impossibility of escaping any possible misunderstanding does not absolve us of our responsibility to do our best.

1. For many of these sources, see: <http://olamot.net/shiur/%D7%9E%D7%A8%D7%90%D7%99%D7%AA-%D7%A2%D7%99%D7%9F>. [↑](#footnote-ref-1)
2. See *Shabbat* 64ab-65a, 146a; *Avoda Zara* 12a; and elsewhere. [↑](#footnote-ref-2)
3. See Ritva, *Eruvin* 88b, s.v. *Ita,* and other sources cited in *Encyclopedia Talmudit*, note 207. [↑](#footnote-ref-3)
4. Meiri, *Beitza* 9a, s.v. *Inyan.* See *Encyclopedia Talmudit*, notes 292-3. [↑](#footnote-ref-4)
5. See *Nachalat Tzvi,* *YD* 87:3, cited in *Pitchei Teshuva, YD* 87:10, to explain the view of the Rema. This is based on Tosafot, *Ketubot* 60a, s.v. *Mema’achan.* See *Shulchan Arukh, OC* 301:45, with *Mishna Berura* 165 and *Bei’ur Halakha* ad loc. [↑](#footnote-ref-5)
6. Notes 262, 308-309. See Ran, *Beitza* 9a, and *Machatzit Ha-shekel, OC* 640:8. [↑](#footnote-ref-6)
7. See *Peri Chadash, YD* 87:7. [↑](#footnote-ref-7)
8. *Magen Avraham, OC* 463:3. [↑](#footnote-ref-8)
9. *Peri To’ar, YD* 87:3. [↑](#footnote-ref-9)
10. See Rav Asher Weiss, who makes this point: <http://www.torahbase.org/%D7%A4%D7%A8%D7%A9%D7%AA-%D7%99%D7%AA%D7%A8%D7%95-%D7%91%D7%A2%D7%A0%D7%99%D7%9F-%D7%9E%D7%A8%D7%90%D7%99%D7%AA-%D7%A2%D7%99%D7%9F-%D7%95%D7%97%D7%A9%D7%93%D7%90/>. [↑](#footnote-ref-10)
11. See *Responsa Penei Yehoshua* 2:2, and Rav Asher Weiss above. [↑](#footnote-ref-11)
12. See above. [↑](#footnote-ref-12)
13. See summary in *Sefer Ha-kashrut* 10:41. [↑](#footnote-ref-13)
14. See Rav Shimshon Frankel in *Tel Talpiyot,* Volume 67, p. 153. [↑](#footnote-ref-14)